

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SR INTERNATIONAL BUSINESS)
INSURANCE CO., LTD.,)

Plaintiff,)

vs.) No. 01 CV 9291
(JSM)

WORLD TRADE CENTER PROPERTIES)
LLC; SILVERSTEIN PROPERTIES INC.;)
SILVERSTEIN WTC MANAGEMENT CO.)
LLC; WESTFIELD, INC.,; THE PORT)
AUTHORITY OF NEW YORK AND NEW)
JERSEY; GMAC COMMERCIAL MORTGAGE)
CORPORATION; UBS WARBURG REAL)
ESTATE INVESTMENTS INC.;)
WESTFIELD WTC LLC; WESTFIELD)
CORPORATION, INC.; WESTFIELD)
AMERICA, INC.; 1 WORLD TRADE)
CENTER LLC; 2 WORLD TRADE CENTER)
LLC; 4 WORLD TRADE CENTER LLC; 5)
WORLD TRADE CENTER LLC; and WELLS)
FARGO BANK MINNESOTA, N.A. AS)
TRUSTEE FOR THE REGISTERED)
HOLDERS OF GMAC COMMERCIAL)
MORTGAGE SECURITIES, INC.,)
MORTGAGE-BACKED PASS-THROUGH)
CERTIFICATES, SERIES 2000-WTC,)

Defendants.)

COPY

CONFIDENTIAL VIDEOTAPED
DEPOSITION OF DENNIS MALOPOLSKI
New York, New York
Monday, September 30, 2002

Reported by:
JOYCE G. ABELES
JOB NO. 140488

CONFIDENTIAL

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September 30, 2002

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1:30 p.m.

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Confidential videotaped deposition of
DENNIS MALOPOLSKI, held at the offices of
Skadden Arps Slate Meagher & Flom, 4 Times
Square, New York, New York, pursuant to
notice, before Joyce G. Abeles, a Notary
Public of the State of New York.

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A P P E A R A N C E S:

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A P P E A R A N C E S : (Cont'd)

THE PORT AUTHORITY OF NEW YORK AND NEW
JERSEY, NEW YORK LITIGATION DIVISION

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BY: CHRISTINA GIFFIN, ESQ.

ALSO PRESENT:

DEREK A. WHITE, PE, Hughes Associates

RUBEN MARTINEZ, Videographer

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IT IS HEREBY STIPULATED AND AGREED,
by and between the attorneys for the
respective parties herein, that filing and
sealing be and the same are hereby waived.

IT IS FURTHER STIPULATED AND AGREED
that all objections, except as to the form
of the question, shall be reserved to the
time of the trial.

IT IS FURTHER STIPULATED AND AGREED
that the within deposition may be sworn to
and signed before any officer authorized to
administer an oath, with the same force and
effect as if signed and sworn to before the
Court.

1 Malopolski-Confidential

2 THE VIDEOGRAPHER: This is tape
3 number one of the videotaped deposition of
4 Mr. Dennis Malopolski in the matter SR
5 versus World Trade Center. This deposition
6 is being held at 4 Times Square, Manhattan,
7 New York.

8 My name is Ruben Martinez from the
9 firm of Esquire Video Services. The court
10 reporter is Ms. Joyce Abeles in association
11 with Esquire Deposition Services.

12 Will the court reporter please swear
13 in the witness.

14 D E N N I S M A L O P O L S K I, called as
15 a witness, having been duly sworn by a
16 Notary Public, was examined and testified as
17 follows:

18 EXAMINATION

19 BY MS. GIFFIN:

20 Q. Good afternoon, Mr. Malopolski. I
21 introduced myself to you earlier, but for the
22 record my name is Christina Giffin. I'm
23 with the law firm of Williams & Connolly and I
24 represent Industrial Risk Insurers in this
25 action. They're a counterclaim defendant.

1 Malopolski-Confidential

2 Could you state your name for the
3 record and spell your last name, please?

4 A. My name is Dennis Malopolski. That's
5 M A L O P O L S K I.

6 Q. And Mr. Malopolski, have you been
7 deposed before?

8 A. No.

9 Q. In any matter at all?

10 A. No.

11 Q. Let me just go over a few ground
12 rules so that we can understand each other as
13 well as possible.

14 We're here to ask you some questions
15 today and I'll be asking you a series of
16 questions and then some of the other counsel may
17 have some questions for you as well. You
18 understand you're under oath?

19 A. Yes.

20 Q. And that -- is there any reason you
21 couldn't testify today? Is there anything that
22 might impair your ability to understand my
23 questions or to answer them fully?

24 A. No.

25 Q. If you don't understand a question at

1 Malopolski-Confidential

2 any point, please let me know and I will try to
3 communicate better with you. If you do answer a
4 question, I'll assume you understand it, okay?

5 A. Yes.

6 Q. As you can see, a court reporter is
7 transcribing your answers today and that means
8 it's important for you to answer orally, rather
9 than shaking your head or nodding your head at
10 any point.

11 Also it's important for you and I to
12 try not to talk over each other, so if you'll
13 let me completely finish my question before
14 answering, and I'll let you completely finish
15 your answer before I ask another question, that
16 will make sure the court reporter can get down
17 what we say accurately, okay?

18 A. Yes.

19 Q. Did you prepare for your deposition
20 here today, sir?

21 A. Yes.

22 Q. And how did you prepare?

23 A. I had a discussion with Tim Reynolds
24 and Tim Stickelman.

25 Q. And was anyone else present for that

1 Malopolski-Confidential

2 conversation?

3 A. No.

4 Q. Was it just one conversation?

5 A. That's correct.

6 Q. When did that occur?

7 A. Maybe 10 days ago.

8 Q. And how long did you meet with them?

9 A. Perhaps an hour, hour and a half, I
10 believe.

11 Q. And where did that meeting take
12 place?

13 A. In this building.

14 Q. Did you review documents in
15 preparation for this deposition?

16 A. No.

17 Q. Mr. Malopolski, where is your office
18 located currently?

19 A. Currently at 115 Broadway, New York
20 City.

21 Q. And how long has it been located
22 there?

23 A. Perhaps eight weeks.

24 Q. And where were you before that?

25 A. I was at Newark International

1 Malopolski-Confidential

2 Airport.

3 Q. And how long was your office located
4 there?

5 A. Ten months.

6 Q. And where was your office prior to
7 that?

8 A. 2 World Trade Center, New York City.

9 Q. Can you tell me how you keep your
10 files at your office at 115 Broadway?

11 A. In a file cabinet, file folders.

12 Q. How are they organized?

13 A. According to the way that I can find
14 them.

15 Q. Can you tell me a little bit more
16 about that?

17 A. I probably label them according to
18 the major area that they're concerned with.

19 Q. Is that the way you've always kept
20 your files?

21 A. Yes.

22 Q. When you moved your office from
23 Newark International Airport to 115 Broadway,
24 did you take all of your files from Newark
25 International Airport to your new office?

1 Malopolski-Confidential

2 A. They're still at Newark International
3 Airport. I have not completely moved in on
4 Broadway.

5 Q. Do you also keep files on your
6 computer?

7 A. Yes, I do.

8 Q. Have you organized the files on your
9 computer?

10 A. Most of the files on the computer
11 would be as a Word document, mostly letters,
12 spreadsheets.

13 Q. Do you keep file folders for your
14 files on your computer separated by subject
15 matter?

16 A. Yes.

17 Q. Do you have an email system?

18 A. I do.

19 Q. Do you maintain files in your email
20 systems?

21 A. Yes.

22 Q. And are those also organized by
23 subject matter?

24 A. Yes, or they could be organized by
25 the sender.

1 Malopolski-Confidential

2 Q. Did you search your files for
3 documents related to this case?

4 A. No.

5 Q. At any point?

6 A. I don't have any files. All my files
7 were lost on September 11th last year.

8 Q. Am I understanding you correctly that
9 you have not sent, received or kept any
10 documents related to the World Trade Center
11 since September 11th, 2001?

12 A. That's correct.

13 Q. Sir, can you briefly tell us about
14 your educational history after high school?

15 A. I attended college. I have a BA
16 degree in biology.

17 Q. Where did you attend college?

18 A. Glassboro State College in New
19 Jersey.

20 Q. Did you have any other education
21 after you completed your BA?

22 A. I have a journeyman's certificate,
23 U.S. Department of Labor, as a chemical process
24 operator.

25 I'm certified in the State of New

1 Malopolski-Confidential

2 Jersey as a gold seal engineer, licensed to
3 operate a steam plant of any capacity. And I
4 have a blue seal license to operate
5 refrigeration plants.

6 Q. When did you receive your BA?

7 A. When?

8 Q. Yes.

9 A. 1971.

10 Q. And the journeyman's certificate from
11 the Department of Labor as a chemical process
12 operator, have I said that correctly?

13 A. That's correct.

14 Q. When did you receive that?

15 A. Best I can recall, I think it should
16 be about 1979.

17 Q. And --

18 A. I could be off by a few years.

19 Q. Were there requirements for you to
20 get that certificate?

21 A. I had to serve an apprenticeship of
22 three years and attend classes and take written
23 tests.

24 Q. What kind of classes did you attend?

25 A. Informational classes in the trade.

1 Malopolski-Confidential

2 Q. And can you describe for me broadly
3 what the subject matter of the trade would be?

4 A. Maintenance and operation of large
5 mechanical equipment.

6 Q. What kind of mechanical equipment?

7 A. Pumps, motors, compressors, blowers,
8 fractionation towers, piping systems, controls,
9 valves.

10 Q. And you served in an apprenticeship
11 for three years, is that correct?

12 A. That's correct.

13 Q. Did you apprentice to an individual
14 or to an organization?

15 A. The Chevron USA, a petroleum refining
16 company.

17 Q. And what were your responsibilities
18 during that apprenticeship?

19 A. I was a chemical process operator.

20 Q. Can you describe for me a little bit
21 what that means?

22 A. That's a person who would be involved
23 in the daily operation and maintenance of a
24 petroleum refinery.

25 Q. So on a typical day, what would you

1 Malopolski-Confidential

2 expect to do in that apprenticeship?

3 MR. REYNOLDS: Object to the form.

4 You can answer if you can generally describe
5 what you did.

6 A. It would involve coming in and working
7 an eight-hour shift in a refinery.

8 Q. What did you do in the refinery?

9 A. Operated it.

10 Q. Can you describe a little bit more
11 for me, please?

12 A. We could probably talk for hours
13 about it.

14 Q. I don't want to talk for hours about
15 it. If you could give me a sense of what --
16 were you the person actually physically
17 operating machinery, or were you the person who
18 was overseeing the operation of machinery? If
19 you could give me a more general sense than
20 operating, but less general than several hours.

21 A. Personally hands-on. We would go out
22 and turn valves and monitor the controls from
23 the control room, and we would generally work
24 orders, identify problems that needed repair.

25 Q. Problems with the systems?

1 Malopolski-Confidential

2 A. Yes.

3 Q. That's what you did, correct?

4 A. Yes.

5 Q. Was there anything else besides
6 attending the types of classes you've described
7 and fulfilling this apprenticeship that you were
8 expected to do to get your journeyman's
9 certificate?

10 A. Pass written tests.

11 Q. Were those tests a part of the
12 classes you mentioned, or were they independent?

13 A. There were tests at all the classes.
14 And there were other tests outside the classes.
15 And there were also situation exams where you'd
16 be given a scenario and you'd have to describe
17 what actions you would take to rectify a
18 situation in the scenario.

19 Q. Anything else you did to complete
20 your requirements for the journeyman's
21 certificate?

22 A. That's about it, I believe.

23 Q. You said you were certified in the
24 State of New Jersey as a gold seal engineer.
25 When were you so certified?

1 Malopolski-Confidential

2 A. As close as I can recall, I would
3 believe that was 1983.

4 Q. And were there requirements for you
5 being certified as a gold seal engineer?

6 A. There's a process of progressive
7 licensing and experience working with the class
8 and magnitude of equipment that you need to move
9 to the next level. It's a four-step process:
10 There's a black seal license, a blue seal
11 license, a red seal license and a gold seal
12 license. And they must be earned in like
13 consecutive fashion, with increasing capacity of
14 equipment and increasing responsibility. And
15 there are written tests required to be passed.

16 Q. You said that there are -- that it's
17 a four-step process. And you move up through
18 these levels you mentioned, correct?

19 A. Yes.

20 Q. Which is the first level and which is
21 the final level?

22 A. Black is the first and gold is the
23 final.

24 Q. And this is a process administered by
25 the State of New Jersey, is that correct?

1 Malopolski-Confidential

2 A. Correct.

3 (Discussion off the record.)

4 Q. And what is it? Can you tell me a
5 little bit more about what is required for you
6 to receive this licensing?

7 A. It's a function of the office of
8 boiler and pressure vessel compliance. It's to
9 certify that people who are operating high
10 pressure equipment are certified, and it
11 requires training and schooling and experience.

12 Q. And what kind of training, schooling
13 and experience did you have in order to take
14 your gold seal?

15 A. I was trained at the Chevron refinery
16 as a part of the apprenticeship. And I attended
17 night school to take courses.

18 Q. Where did you attend night school?

19 A. Middlesex County Vocational School.

20 Q. And approximately when were you
21 attending night school there?

22 A. Prior to receiving the gold seal
23 license, for about -- I guess the course might
24 have been a six-month course immediately prior
25 to taking the test for the gold seal license.

1 Malopolski-Confidential

2 So I said that was 1983, so that would be six
3 months prior to receiving the license because
4 the exam is quite rigorous and very technical
5 and requires a lot of computation, a lot of
6 formulas to be memorized, a lot of knowledge
7 about expansion factors and maximum allowable
8 working pressures, all things to do with large
9 steam equipment.

10 Q. In qualifying to take your gold, to
11 get a gold seal license, were you required to
12 first receive a black, then blue, then red
13 license?

14 A. That's correct.

15 Q. Which ultimately became a gold
16 license?

17 A. Well, you had to test for each level.
18 You had to perform in that capacity for a
19 certain amount of time. The quickest that you
20 could move through the entire process, I
21 believe, would be about three and a half years.

22 Q. And approximately how long did it
23 take you to move through the process?

24 A. Three and a half years.

25 Q. You mentioned you also have a blue

1 Malopolski-Confidential

2 seal license to operate refrigeration plants,
3 correct?

4 A. Correct.

5 Q. That's different from your gold seal
6 license?

7 A. It's a part. Both seals are on the
8 same certificate.

9 Q. And do you also have the black and
10 red seals on that same certificate?

11 A. No. The structure is different.
12 There's a blue, a red and a gold.

13 Q. For refrigeration?

14 A. Correct.

15 Q. When did you receive your blue seal?

16 A. 1983, 1984. There's a requirement
17 that you must work with toxic or flammable
18 refrigerant before you can sit for the test.
19 And that was the first time that I had worked
20 with flammable or toxic refrigerants. I had an
21 ammonia plant, ammonia refrigeration plant.

22 Q. You worked at the ammonia
23 refrigeration plant?

24 A. In the refinery I worked at, there
25 was an ammonia refrigeration plant.

1 Malopolski-Confidential

2 Q. And that's again at Chevron?

3 A. No, that was at Hess.

4 Q. Were there any other requirements
5 besides that you must work with toxic or
6 flammable materials?

7 A. Refrigerants.

8 Q. Yes, thank you. Before you could get
9 your blue seal license?

10 A. There was the same sort of time
11 constraint and the same sort of written testing.

12 Q. Did you also have to attend classes?

13 A. No, I studied for that myself.

14 Q. Have you had any other education
15 besides what you've just described to me? And
16 just so we're on the same page, you told me
17 about your BA in biology, and then your
18 journeyman's certificate and your gold seal
19 license and blue seal license.

20 Is there any other type of education
21 or training you've had?

22 A. Well, I have continuously attended
23 seminars and training sessions in my field.

24 Q. Approximately how often do you attend
25 seminars or training sessions in your field?

1 Malopolski-Confidential

2 A. It's sporadic. It depends upon when
3 the training is offered and when it fits with my
4 schedule.

5 Q. Are there continuing education
6 requirements for your field?

7 A. No, not requirements, but of course
8 anyone who would like to stay, you know, well
9 informed, anyone who is responsible and wants
10 to, you know, excel in the field, of course,
11 will always seek out more education.

12 Q. And that's why you continue to seek
13 out education, correct?

14 A. Yes.

15 Q. Can you tell us broadly what subject
16 matters you've sought out additional training
17 in?

18 A. Always in large equipment,
19 refrigeration.

20 Q. Anything else?

21 A. Safety and maintenance procedures.
22 Computer controls. All things that would be
23 pertinent to my job description.

24 Q. And the seminar and training
25 sessions, were those sessions conducted by the

1 Malopolski-Confidential

2 Port Authority or other entities?

3 A. Both.

4 Q. Can you tell me approximately how
5 many seminars and training sessions you've
6 attended since January of 2000?

7 A. There are none that come to mind.

8 Q. Can you tell me the last time you
9 attended a seminar or training session?

10 A. No.

11 Q. Was it within the last five years?

12 A. I would think so, yes.

13 Q. But was it within the last two years?

14 A. No.

15 Q. Have you received any other education
16 or specialized training besides what you've
17 already described to me?

18 A. No.

19 Q. Can you please describe your work
20 history for me, starting again, starting after
21 college?

22 A. How detailed do you want to be?

23 Q. Well, let's start broadly and if I
24 need more detail, I'll ask you further
25 questions.

1 Malopolski-Confidential

2 A. Okay. Broadly, from the time that I
3 graduated from college, I taught school in
4 Camden for one year.

5 Q. And that was in 1979?

6 A. 1971.

7 Q. What level of school did you teach?

8 A. 7th and 8th grade biology.

9 Q. For one year?

10 A. Yes.

11 Q. And then what did you do?

12 A. I worked for the Hess refinery for
13 several years.

14 Q. And that was from 1972 to
15 approximately when?

16 A. '74, '75, something like that.

17 Q. And what did you do for Hess?

18 A. I was, I worked in the laboratory
19 there.

20 Q. And what were your responsibilities?

21 A. Sampling and testing petroleum
22 products.

23 Q. And in '74 or '75, you changed jobs?

24 A. Yes, I did. The Hess refinery closed
25 down and I worked as a marine surveyor.

1 Malopolski-Confidential

2 Q. And that was from 1974 or 1975 until
3 approximately when?

4 A. Probably a year and a half, almost
5 two years.

6 Q. And who were you working for?

7 A. Company called Laboratory Services,
8 in Carteret, New Jersey.

9 Q. And what were your responsibilities?

10 A. Sampling and testing petroleum
11 products.

12 Q. And you left that job approximately
13 when?

14 A. Whatever that time frame was, two
15 years.

16 Q. It looks like about 1976 or 1977?

17 A. Sounds good.

18 Q. And where did you go then?

19 A. Then I was at the Chevron refinery in
20 Perth Amboy.

21 Q. And that was part of your
22 apprenticeship?

23 A. That's correct.

24 Q. And what was your title?

25 A. Refinery operator.

1 Malopolski-Confidential

2 Q. And what were your responsibilities?

3 A. To operate a petroleum refinery as we
4 had previously discussed.

5 Q. And why did you leave your position
6 as a marine surveyor?

7 A. The opportunity at Chevron; a lot
8 more pay, better job.

9 Q. And you were at Chevron for
10 approximately three years?

11 A. Six years.

12 Q. Approximately 1983?

13 A. Right, 1982, 1983, somewhere in
14 there.

15 Q. And where did you go then?

16 A. To the Hess refinery in Fort Redding,
17 New Jersey.

18 Q. Is that the same location that you
19 were working for previously?

20 A. Yes. It reopened. It was a rebuild
21 and I went there for the construction phase,
22 construction and startup. And I was there for a
23 short time, I guess about three years, when the
24 opportunity came up with the Port Authority and
25 I changed jobs.

1 Malopolski-Confidential

2 Q. So until about 1986 or 1987?

3 A. Right.

4 Q. And why did you decide to go to the
5 Port Authority?

6 A. A better opportunity, more security.
7 I'd been put out of work twice in the refining
8 industry by layoffs and plant shutdowns.

9 Q. I understand the Hess refinery shut
10 down. Was there another --

11 A. Yes, the Chevron refinery also shut
12 down.

13 Q. What was your position when you went
14 to the Port Authority in approximately 1986 or
15 1987?

16 A. Watch engineer.

17 Q. What were your responsibilities as a
18 watch engineer?

19 A. Operation and maintenance of HVAC
20 equipment at Newark Airport.

21 Q. Is that a supervisory position?

22 A. Not at that time.

23 Q. To whom did you report?

24 A. The supervisor in charge of my area.

25 Q. And do you remember who that was?

1 Malopolski-Confidential

2 A. I think George Nemec at that time.

3 Q. Can you spell that last name, please?

4 A. N E M E C.

5 Q. How long were you a watch engineer at
6 Newark Airport?

7 A. Approximately four years.

8 Q. So that brings us to about 1990?

9 A. Yes.

10 Q. In connection with your
11 responsibilities as a watch engineer for the
12 HVAC equipment, did you have responsibility for
13 any other HVAC equipment outside of Newark
14 Airport?

15 A. No.

16 Q. And just for the record, HVAC means
17 heating, ventilation and air conditioning,
18 correct?

19 A. Correct.

20 (Discussion off the record.)

21 Q. So to what position did you move in
22 1990?

23 A. Maintenance group supervisor.

24 Q. Was that still at Newark Airport?

25 A. That's correct.

1 Malopolski-Confidential

2 Q. What were your responsibilities
3 there?

4 A. Supervision of the people who were
5 watch engineers at that time.

6 Q. How many people were under your
7 supervision?

8 A. It varied from time to time, but
9 approximately 10.

10 Q. And at that point in time, were your
11 responsibilities still limited solely to Newark
12 Airport?

13 A. That's correct.

14 Q. How long did you do that job?

15 A. For three years.

16 Q. And am I correct in assuming that the
17 change in your position from watch engineer to
18 maintenance supervisor was a promotion?

19 A. That's correct.

20 Q. And what did you -- what position did
21 you move to after three years?

22 A. After the watch, after the
23 maintenance group supervisor?

24 Q. Correct.

25 A. I came to the World Trade Center

1 Malopolski-Confidential

2 following the 1993 bombing as a general
3 maintenance supervisor.

4 Q. And why did you make that change?

5 A. We had four people killed in that
6 department and I replaced one of the gentleman
7 who died.

8 Q. That reminds me that I forgot to say
9 when I was talking at the beginning of our
10 deposition, if at any point during the day or
11 during the afternoon you want to take a break,
12 please let me know, or let your counsel know.
13 The only caveat to that is that if there's a
14 question pending, we need to answer the question
15 and then we can go ahead and take a break.

16 I mention this because we may be
17 discussing the 1993 bombing as well as what
18 happened on September 11th, and I understand
19 that those may be difficult topics and we want
20 to make having to do this as easy for you as
21 possible, so please let me know if you do want
22 to take a break.

23 And let me also take this opportunity
24 to express condolences on behalf of everyone on
25 our side of the table for the Port Authority's

1 Malopolski-Confidential

2 loss, in both in 1993 and 2001.

3 A. Thank you.

4 Q. What were your responsibilities as
5 general maintenance supervisor in 1993?

6 A. My primary focus was the rebuilding
7 of the refrigeration plant.

8 Q. How many people were you supervising
9 in connection with the rebuilding of the
10 refrigeration plant, if any?

11 A. My duties were to direct the
12 contractor, primarily York International, and
13 they had a staff which did the work, actually
14 did the work. And that may have been -- there
15 was an expanding and contracting group. At
16 times it could have been as many as 30 people.

17 Q. Was there anyone else within the Port
18 Authority with whom you were working on
19 rebuilding the refrigeration plant in 1993?

20 A. Yes.

21 Q. Who was that?

22 A. My entire department of plant and
23 structures, the supervising engineer, the
24 manager of plant and structures, the chief
25 maintenance supervisor who I worked for, and

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2 various people from engineering.

3 Q. You said that your duties were to
4 direct the contractor, Newark International,
5 which as I understand your testimony was the
6 group that actually did the work.

7 A. Not Newark International, York
8 International.

9 Q. York International, I'm sorry, I
10 misspoke. Can you tell me about, you also said
11 that a great many people from the department of
12 plant and structures were involved in this
13 rebuilding process, correct?

14 A. Yes.

15 Q. Can you tell me about the interaction
16 between York International and Port Authority as
17 pertains to the rebuilding of the refrigeration
18 plant? I'm trying to determine how
19 responsibility was assigned between York
20 International and Port Authority in place as to
21 that --

22 MR. REYNOLDS: Object to the form of
23 the question. You can answer. You can
24 answer.

25 A. York was the manufacturer of the

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2 equipment and they, of course, had the expertise
3 and the access to parts, drawings and
4 procedures. So they were contracted to rebuild
5 the equipment that was damaged, and of course we
6 had to track the costs and drive the schedule.
7 And any modifications that we wanted, any
8 improvements that we'd like incorporated at that
9 time, we would direct them to do.

10 Q. Did you have any other
11 responsibilities with the Port Authority in
12 1993?

13 A. Yes. At the same time that we were
14 rebuilding the refrigeration plants, we were
15 also operating and maintaining the buildings.
16 And we had a contract staff outside the York
17 International group which were tasked to operate
18 and maintain the facility from a mechanical
19 standpoint.

20 Q. And by facility, you mean the World
21 Trade Center complex?

22 A. That's correct.

23 MR. BLATNIK: Object to the form.

24 Q. Did you have any other
25 responsibilities with the Port in 1993?

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2 A. Other than?

3 Q. Other than those which you've already
4 described?

5 A. I don't understand the question.

6 Q. Well, you've told me that part of
7 your responsibility was rebuilding the
8 refrigeration plant, and that you were also
9 operating and maintaining the buildings, and
10 that you had a contract staff which were tasked
11 to operate and maintain the facility from a
12 mechanical standpoint.

13 I'm just trying to determine whether
14 there was anything else you were responsible for
15 in 1993?

16 MR. STICKELMAN: Objection,
17 mischaracterizes the prior testimony.

18 MR. REYNOLDS: You can go ahead.

19 A. I still don't understand what the
20 thrust is. You basically stated my duties, but
21 you know, we could get very detailed into
22 different aspects of my duties. But in a broad
23 brush, I would say that's it.

24 Q. That's fine. I was just trying to
25 determine if I got a broad brush understanding

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2 of what your responsibilities were.

3 How long were you a general
4 maintenance supervisor for the World Trade
5 Center?

6 A. I think about three years.

7 Q. Until about 1996?

8 A. Correct.

9 Q. And what position did you move to in
10 1996?

11 A. Chief maintenance supervisor.

12 Q. Is that a promotion?

13 A. Yes.

14 Q. And were you still at the World Trade
15 Center?

16 A. Yes.

17 Q. And how did your responsibilities
18 change when you got that promotion, if at all?

19 A. I was responsible then for all the
20 mechanical equipment in the World Trade Center
21 complex, operations and maintenance.

22 Q. Prior to receiving this promotion,
23 you were not responsible for all the mechanical
24 equipment?

25 A. Just pieces of it. Just different

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2 concentrations.

3 Q. Which pieces?

4 A. The refrigeration plant, the steam
5 plant, and the river water pump station and the
6 computer cooling system.

7 Q. Anything else?

8 A. That was as a general maintenance
9 supervisor, those were my areas of
10 concentration.

11 Q. And then in 1996, as chief
12 maintenance supervisor, your area extended to
13 include all mechanical equipment?

14 A. Correct.

15 MR. REYNOLDS: Object to the form.

16 Q. What were the -- what did that bring
17 into your area of responsibility that was not
18 within your area of responsibility prior to that
19 promotion?

20 MR. REYNOLDS: Object to the form.

21 You can answer.

22 THE WITNESS: I don't understand.

23 MR. REYNOLDS: If you don't

24 understand, ask her to --

25 THE WITNESS: I don't understand what

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2 you said.

3 MR. REYNOLDS: Oh, it's just legal --
4 to protect the record for trial. You can
5 still answer even if I object.

6 A. That would also take into account the
7 HVAC, domestic water, sanitary systems, fire
8 protection systems. That's about it.

9 Q. Can you tell me -- you told me that
10 prior to 1996, part of your area of
11 responsibility was with the river water pump,
12 correct?

13 A. Correct.

14 Q. Is that a different system than the
15 domestic water?

16 A. Yes.

17 Q. Can you describe for me very briefly
18 what the difference between those two systems
19 is?

20 A. In order to reject the heat of the
21 building, the refrigeration machinery needs to
22 be cooled, and that cooling is done with water
23 from the Hudson River. And so there's a pump
24 station in Battery Park City which takes suction
25 on the Hudson River and pumps the water through

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2 the building and the refrigeration equipment,
3 and then back to the river.

4 Q. And by building, you mean the World
5 Trade Center complex, correct?

6 MR. BLATNIK: Object to the form.

7 MR. REYNOLDS: Object to the form.

8 Q. So in 1996, it became your
9 responsibility to oversee all of the systems
10 that you've just described to me, is that
11 correct?

12 A. That's correct.

13 Q. Who did you report to in that
14 capacity?

15 A. The supervising engineer.

16 Q. Who was that?

17 A. It changed several times.

18 Q. Let's start with in 1996?

19 A. It was Ted Stam.

20 Q. And after Mr. Stam, do you remember
21 who it was?

22 A. Lee Zucchi.

23 Q. Can you spell that name?

24 A. Z U C C H I.

25 Q. And after Mr. Zucchi?

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2 A. Phil Taylor.

3 Q. And --

4 A. And then that was it.

5 Q. Do you still report to Mr. Taylor?

6 A. No.

7 Q. To whom do you report?

8 A. Now I report to a gentleman named
9 Carl Passeri.

10 Q. Can you tell me who you reported to
11 in your capacity as maintenance group -- sorry,
12 as general maintenance supervisor?

13 A. Jeff Jasper.

14 Q. And what was Mr. Jasper's position?

15 A. Chief maintenance supervisor.

16 Q. So you moved into Mr. Jasper's
17 position in 1996?

18 A. That's correct.

19 Q. And did Mr. Jasper move on to a
20 different position within the Port Authority?

21 A. He retired.

22 Q. How long were you a chief maintenance
23 supervisor?

24 A. I still am, although my duties and my
25 work location have changed.

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2 Q. Can you describe for me how your
3 duties have changed since 1996?

4 A. At this point, I am involved in
5 the --

6 Q. Let me change the question slightly. X
7 It was a poorly phrased question.

8 Can you describe for me how, if at
9 all, your job duties changed between 1996, as
10 you've already described them, and mid summer of
11 2001?

12 A. We went through a process whereby we
13 sold the World Trade Center -- we put it up for
14 net lease, rather. And we changed the way we
15 did business in the interim prior to that. And
16 we changed the way we staffed the facility.

17 Q. I'd like to limit your answer for the
18 moment to the time prior to the Port Authority's
19 decision to lease the World Trade Center and
20 determine whether or not your job
21 responsibilities changed during that period of
22 time?

23 MR. REYNOLDS: That's exactly what he
24 just said. Prior to the net lease.

25 A. For about two years prior to the

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2 lease, we changed the way we did business. The
3 old model of the chief maintenance supervisor of
4 plant and structures, with a staff that did
5 mechanical operations and maintenance, was
6 reorganized several times.

7 Q. Am I understanding you correctly that
8 that process started in about 1999?

9 A. Approximately, I guess.

10 Q. So between 1996 and 1999, did your
11 job responsibilities change?

12 A. No. They were pretty static. I mean
13 the model of the way we did business from the
14 time the Trade Center opened up until about 1999
15 remained pretty much the same.

16 Q. I'd like to come back a little later
17 in the afternoon and talk about that process by
18 which your job responsibilities, if I understand
19 what you're saying, changed.

20 I'd like to focus now on what your
21 job responsibilities are today. Can you tell me
22 what your responsibilities are?

23 A. Today, I'm involved in the site
24 management group for priority capital projects.
25 And we manage the World Trade Center site.

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2 Q. Are you still an employee of the Port
3 Authority of New York and New Jersey?

4 A. Yes, I am.

5 Q. And to whom do you report today?

6 A. Carl Passeri.

7 MS. GIFFIN: I'd like to introduce as
8 the first exhibit a document Bates stamped
9 PORT/SRI 151727 through 151730.

10 (Malopolski Exhibit 1, document
11 bearing Bates Nos. PORT/SRI 151727 through
12 151730, marked for identification, as of
13 this date.)

14 Q. Let me know what you've had a chance
15 to review that, please.

16 A. Okay.

17 Q. Sir, have you seen this document
18 before?

19 A. No.

20 Q. Have you seen any document like it
21 before?

22 MR. REYNOLDS: Object to the form.
23 You can answer.

24 A. It looks a little bit like an
25 organization chart. I've seen a lot of those.

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2 Q. Can you recognize the headings on
3 this document?

4 A. No, except, you know, World Trade
5 Center Property Management, Construction Tenant
6 Project Management, Vertical Transportation
7 Operations. Those are terms that have been used
8 at the World Trade Center for many years.
9 Security and Life Safety.

10 Q. If I could direct your attention to
11 the page numbered 151729, under the heading
12 "Static Group - Facilities/Central Plant (Unit
13 801) 801A6," your name is listed with several
14 other names, do you see that?

15 A. Yes, I do.

16 Q. Do you understand what that heading
17 is meant to refer to?

18 MR. REYNOLDS: Don't speculate.

19 A. No.

20 Q. Are you part of any group with the
21 name static group?

22 A. I have never heard myself referred to
23 as part of any static group.

24 Q. Do you have any understanding of what
25 this list of names is meant to refer to?

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2 A. Perhaps if I study it, I could make
3 some inferences by seeing the people I know that
4 are in the group, where I fit in with them.

5 Q. If you could take a minute to do
6 that, please.

7 A. These are the people that were in my
8 office up until September 11th, 2001.

9 Q. When you say your office, are you
10 referring to a division or group within the Port
11 Authority?

12 A. Yes, all these people sat in the same
13 spot.

14 Q. What I'm trying to determine is, were
15 they within the same division or group of the
16 Port Authority?

17 A. Yes, the World Trade Department.

18 Q. Am I correct that this is not a
19 complete list of individuals in the World Trade
20 Department?

21 MR. REYNOLDS: Object to the form.

22 A. That's correct, it's not a complete
23 list. You're talking about the one that we're
24 just looking at right here, static group
25 facilities, central plant?

1 Malopolski-Confidential

2 Q. That's correct.

3 A. These are people who were physically
4 sitting in the same space as I was at that time.

5 Q. Did these individuals have any
6 overlapping areas of responsibility?

7 A. Yes.

8 Q. And what was that, please?

9 A. That would be the operation and
10 maintenance of the mechanical, electrical and
11 structural systems of the World Trade Center.

12 Q. Am I understanding you correctly that
13 everyone on this list had some responsibility
14 for the maintenance of the mechanical,
15 electrical and structural systems at the World
16 Trade Center?

17 MR. REYNOLDS: At what point in time?

18 Q. Well, good point. Let me step back.
19 You identified this list as people who were
20 physically sitting in the same space at the time
21 that you were in the World Trade Center,
22 correct?

23 MR. REYNOLDS: Object to
24 mischaracterizing of his testimony. You can
25 answer the question.

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2 A. These were the people that were
3 sitting in the same space, just prior to
4 September 11th. In fact, on the day of
5 September 11th, these people were in the same
6 space.

7 Q. And at that point in time, each of
8 the individuals on this list had responsibility
9 for the operation and maintenance of the
10 mechanical, electrical and structural systems of
11 the World Trade Center?

12 A. No.

13 Q. Sorry. I must have misunderstood
14 what you were saying.

15 A. On September 11th, these people were
16 not involved. Prior to July 24th, these people
17 were involved, but following July 24th, they
18 were not. July 24th, 2002, there was a
19 clear-cut break as to who was involved in the
20 operation and maintenance of the World Trade
21 Center.

22 Q. And that's because operation and
23 maintenance was transferred to Silverstein
24 Properties?

25 A. Correct.

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2 Q. Do you know who Leonard, I'm sure
3 I'll mispronounce it, Ardizzone is?

4 A. Yes, I do.

5 Q. What was his position with the Port
6 Authority in July of 2001?

7 A. He was the chief maintenance
8 supervisor in charge of structural maintenance
9 at the World Trade Center.

10 MR. REYNOLDS: I'll object to the
11 form of that question, just the uncertainty
12 as to when in July we're talking about.

13 A. That would be prior to July 24th.

14 Q. Thank you. And Herman Ret, are you
15 familiar with that individual?

16 A. Yes, I am.

17 Q. What was his position with the Port
18 Authority prior to July 24th, 2001?

19 A. Prior to July 24th, he was the chief
20 maintenance supervisor, electrical, at the World
21 Trade Center.

22 Q. And Raymond Simonetti?

23 A. Raymond Simonetti was a general
24 maintenance supervisor or maybe a maintenance
25 unit supervisor.

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2 Q. Can you tell --

3 A. I'm not sure. He did not work for
4 me.

5 Q. Did you work for him?

6 A. No.

7 Q. Did you work for any of those three
8 individuals?

9 A. No.

10 Q. Did any of the --

11 A. The first two were my peers.

12 Q. Can you tell, referring to the time
13 period prior to July 24th, 2001, is this list
14 organized in terms of hierarchy? That is, I'm
15 trying to determine whether or not the people on
16 this list were generally listed as supervisory
17 down to less supervisory positions, or not?

18 MR. REYNOLDS: Object to the form.

19 You can answer.

20 A. They're mixed up. They're not in a
21 hierarchy as you've described.

22 Q. Is there any order that you can
23 discern in the manner in which these names are
24 listed?

25 A. No.

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2 MS. GIFFIN: Let's mark as the next
3 exhibit a document Bates stamped PORT/SRI
4 166945 through 166955.

5 THE WITNESS: Can we take a short
6 break at this time?

7 MS. GIFFIN: Sure.

8 THE VIDEOGRAPHER: The time is 2:33.
9 We're going off the record.

10 (Recess taken.)

11 THE VIDEOGRAPHER: The time is 2:43.
12 We're back on the record.

13 MS. GIFFIN: Let me correct what I
14 said just prior to going off the record.
15 I'd like to introduce two exhibits at this
16 time. The first is Bates stamped 166945 to
17 946.

18 (Malopolski Exhibit 2, document
19 bearing Bates Nos. PORT/SRI 166945 and 946,
20 marked for identification, as of this date.)

21 MS. GIFFIN: And Exhibit 3 will be
22 166954 to 955.

23 (Malopolski Exhibit 3, document
24 bearing Bates Nos. PORT/SRI 166954 and 955,
25 marked for identification, as of this date.)

1 Malopolski-Confidential

2 BY MS. GIFFIN:

3 Q. Let me know when you've had a chance
4 to review that?

5 A. Yes.

6 Q. Focusing your attention on Exhibit 2,
7 have you seen that document before, sir?

8 A. No.

9 Q. Have you seen any document like this
10 before?

11 A. No.

12 Q. Are you familiar with the heading on
13 this document which reads, "Actual 88/Fire
14 Chapter"?

15 A. No, I'm unfamiliar with that.

16 Q. Do you see your name on this list,
17 sir?

18 A. I do.

19 Q. Do you have any understanding of why
20 your name might be on the list with the heading
21 I just read?

22 MR. REYNOLDS: Don't speculate.

23 A. No.

24 Q. Do you have responsibilities with
25 regard to the possibility of fire -- sorry,

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2 strike that.

3 Prior to July 24th, 2001, did you
4 have responsibility with regard to the
5 possibility that a fire might occur at the World
6 Trade Center?

7 MR. REYNOLDS: Object to the form.

8 You can answer.

9 A. What point in time prior to July 24th?

10 Q. Well, at any time prior to July 24th.

11 And at this point, I'm just asking you a yes or
12 no question.

13 A. Yes.

14 Q. At what point in time did you have
15 that kind of responsibility?

16 A. Perhaps two years before July 24th.

17 Q. For what period of time did you have
18 that responsibility, or is that what you meant
19 to tell me, that it was the entire two years
20 prior to July 24th, 2001?

21 A. No, no. The time prior to those two
22 years, the two years prior to July 24th, I did
23 not have --

24 MR. REYNOLDS: The 24 months leading
25 up to July 24th?

1 Malopolski-Confidential

2 A. The 24 months leading up to July 24th,
3 we reorganized a lot. My job changed several
4 times, and my responsibilities were not as clear
5 during that time as they were prior to that
6 time.

7 Q. Prior to that time, what
8 responsibilities did you have with respect to
9 the possibility that a fire might occur at the
10 World Trade Center?

11 MR. REYNOLDS: Object to the form.

12 You can answer.

13 A. In the event of a fire, the
14 responsibility for our group was to report to
15 the fire command center and await instructions
16 from the incident commander, who would be FDNY,
17 the highest ranking guy there.

18 Q. When you say our group, to whom are
19 you referring?

20 A. At that time, it would have been the
21 mechanical group.

22 Q. Did you have any responsibilities
23 prior to July 24th, 2001 to make the building
24 safer in the event of a fire?

25 MR. REYNOLDS: Object to the form of

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2 the question.

3 A. No.

4 Q. At no point?

5 A. No.

6 Q. If I could turn your attention to
7 Exhibit 3. Have you seen this document before?

8 A. No.

9 Q. Any document like it before?

10 A. It's a list of names, World Trade
11 people.

12 Q. Do you have any understanding of what
13 the title of this document, which is "Power
14 Failure," is meant to refer to?

15 A. I would assume that it's a power
16 failure at the World Trade Center. That seems
17 to be pretty obvious, but what is "Power Failure
18 (Cond)"?

19 MR. REYNOLDS: You answered the
20 question. You can't ask any.

21 Q. Doesn't really matter, unfortunately,
22 what I might say.

23 A. No, it's confusing because I've never
24 seen this document and there are terms here that
25 I don't understand.

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2 Q. Do you recognize the names on this
3 list?

4 A. Yes.

5 Q. All of them?

6 A. There are three or four that I don't
7 recognize.

8 Q. Are these individuals who worked in
9 the World Trade Department?

10 MR. STICKELMAN: At what time?

11 MS. GIFFIN: Prior to July 24th, 2001.

12 A. Prior to July 24th? Most of them,
13 yes. Others, no.

14 Q. Are you able to determine what this
15 list of individuals might have in common?

16 MR. REYNOLDS: In a metaphysical
17 sense?

18 Q. Do you understand the question, sir?

19 A. Like Tim said, you know, there are a
20 lot of ways that we can classify them and say
21 they have something in common, but it looks like
22 mostly operations and maintenance staff for the
23 complex, with some other people from different
24 departments in the Port Authority. Also
25 contractors that work for the Port Authority.

1 Malopolski-Confidential

2 Q. In connection with your job
3 responsibilities, is it fair to say you became
4 very familiar with the World Trade Center
5 mechanical system?

6 MR. REYNOLDS: Object to the form.

7 You can answer.

8 A. Yes.

9 Q. Did you also become familiar with the
10 operations of the complex?

11 A. Yes.

12 Q. And the way it was managed day to
13 day?

14 A. Yes.

15 MS. GIFFIN: I'd like to introduce
16 the next exhibit, a document Bates stamped
17 PORT/SRI 150454 to 455.

18 (Malopolski Exhibit 4, document
19 bearing Bates Nos. PORT/SRI 159454 and 455,
20 marked for identification, as of this date.)

21 Q. If you'd let me know when you've had
22 a chance to review that document, please?

23 A. Okay.

24 Q. Have you seen this document before,
25 sir?

1 Malopolski-Confidential

2 A. No. I may have seen the top part
3 since it was addressed to me. Looks like an
4 Outlook email message.

5 Q. Do you not have any recollection of
6 having received this document?

7 A. No.

8 Q. Any part of this document?

9 A. No.

10 Q. I'd like to refer you to the lower
11 part of this document underneath the heading
12 "Original Message," which also appears to be an
13 email?

14 A. Correct.

15 Q. The subject line of that reads,
16 "Daily Operation Summary, May 7th, 2001, 0700
17 hrs to 1900 hrs." Are you familiar with daily
18 operations summaries that may be performed at
19 the World Trade Center?

20 MR. REYNOLDS: Object to the form of
21 the question. That were performed?

22 MS. GIFFIN: Yes, thank you.

23 Q. Are you familiar with such daily
24 operation summaries?

25 A. I know that they existed, but I would

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2 not normally see this. This is an operations
3 document.

4 Q. Can you tell me what you do know
5 about daily operation summary?

6 A. There would be people on duty 24
7 hours a day and they would keep a log of
8 incidents.

9 Q. Incidents that occurred at the
10 complex?

11 A. Correct.

12 MR. REYNOLDS: Object to the form.

13 Q. And you said you would not normally
14 see this. This is an operations document. You
15 testified earlier that you became familiar with
16 the operations at the complex in the course of
17 your job responsibilities, correct?

18 A. Correct.

19 Q. Who -- is there a reason why you
20 wouldn't familiarize yourself with daily
21 operations summaries in connection with your job
22 responsibilities?

23 MR. REYNOLDS: Object to the form.

24 Object to the fact that it assumes, that the
25 question assumes that he should be

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2 familiarizing himself with the operations
3 summaries. You can answer the question.

4 A. The way the building was operated, we
5 had basically a plant and structures group,
6 which would take care of electrical, mechanical,
7 structural items.

8 Then we had an operations group which
9 would take care of the daily operations, as you
10 read down code 2, elevator secured, coordinated
11 PA porters. That's business that I would not be
12 involved in. That's stuff of a cleaning and
13 people movement nature which would be outside my
14 scope.

15 My concentration, as you can see,
16 where they asked me to look at entry 1312,
17 refers to a mechanical vibration out at the
18 river water pump station, so that's something
19 that I would need to know or need to look into,
20 and the rest of this stuff is not pertinent to
21 my area of endeavor.

22 So I would never see this on a normal
23 basis, unless it was flagged that it was
24 something that I needed to see.

25 Q. Do you know who would be responsible

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2 for this area of endeavor, as you said?

3 MR. REYNOLDS: At what point in time?

4 Q. Prior to July 24th, 2001?

5 A. I suppose we could look at the list
6 of people who it's sent to and assume that those
7 would be the people who would be interested in
8 it.

9 Q. Do you have any independent knowledge
10 of who was responsible for the daily operation
11 summary?

12 A. No.

13 Q. Do you have an understanding of the
14 phrase base building systems as related to the
15 World Trade Center?

16 A. Yes.

17 Q. Can you tell me what you understand
18 that term to mean?

19 A. The equipment that was installed
20 permanently anchored to the building.

21 Q. For example?

22 A. Refrigeration plant, HVAC equipment,
23 pumps, piping, all the infrastructure, if you
24 will.

25 Q. Electrical system?

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2 A. Yes.

3 Q. Water supply?

4 A. Yes.

5 Q. All considered base building systems
6 for the World Trade Center complex, correct?

7 MR. REYNOLDS: Objection.

8 A. Correct.

9 MR. REYNOLDS: Object to the form.
10 Object to the characterization.

11 A. It's part of the stuff that, you know,
12 when a place is built, the things that were
13 included to start off with. Any kind of tenant
14 modifications would not be base building, so
15 we're talking raw space, major infrastructure
16 items.

17 MS. GIFFIN: I'd like to introduce --
18 actually, let me step back.

19 Q. I'd like to return to the topic we
20 were discussing earlier of the approximately two
21 years leading up to the lease at the World Trade
22 Center. And I believe you testified that your
23 job responsibilities changed, is that correct?

24 A. A lot of job responsibilities in the
25 department changed, that's correct.

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2 Q. At what point -- strike that.

3 Do you know when the Port Authority
4 first decided to lease the World Trade Center?

5 A. There was talk of leasing the World
6 Trade Center back in the 1970's when it was
7 first opened, and it was a topic that always
8 came up, but it really seemed to gather momentum
9 in about 1995. And from that point on, as we
10 can see looking back, it, you know, it gathered
11 momentum and a half.

12 Q. As I understand what you told me
13 earlier this afternoon, at some point the
14 decision to lease the World Trade Center started
15 to affect your job responsibilities, is that
16 correct?

17 MR. REYNOLDS: Object to the form.
18 Object to the characterization of the
19 testimony. You can answer.

20 A. It affected the entire department.

21 Q. Including you?

22 A. Including me. I was part of the
23 department, yes. It wasn't like it was focused
24 on me.

25 Q. I understand. But at what point did

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2 it start to affect your personal job
3 responsibilities?

4 MR. REYNOLDS: Object to the form.

5 A. It's hard to say. As I had testified,
6 about two years prior to the actual lease,
7 things started to change. And we reorganized a
8 lot.

9 Q. You reorganized several times?

10 A. Yes.

11 Q. If you could describe for me the
12 reorganizations that took place from the time
13 period approximately 24 months before the lease
14 up to July 24th, 2001?

15 A. As I understand it, as it was
16 explained to me, we were going to change the way
17 we did business to be more like other real
18 estate in New York City. So that the way we
19 used to conduct the business at the World Trade
20 Center was changed to be more like any other
21 building that you might run into here.

22 And as explained to me, the rationale
23 was that an operator that came into the building
24 would understand that better than our structure.

25 Q. Do you know why that change occurred?

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2 A. No.

3 Q. No one ever discussed with you why
4 they were making that change?

5 A. No, other than what I just said.
6 That was my perception and that was some of the
7 stuff that I had heard.

8 Q. How did that affect your job
9 responsibilities?

10 MR. REYNOLDS: Object to the form.

11 A. They changed.

12 Q. To what?

13 A. They changed several times.

14 Q. The first time?

15 A. The first time we divided up into,
16 instead of having an entire central system of
17 performing maintenance, we broke the area down
18 into distinct buildings, Tower 2, Tower 1, Tower
19 4, Tower 5, public space. And we divided up
20 into groups that would concentrate only on their
21 specific areas, as opposed to the whole complex
22 as it had been before.

23 Q. And that occurred in 1999?

24 A. As near as I can -- I don't have a
25 timeline with me and all my records are lost,

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2 but as far as I can -- that seems like about a
3 pretty good timeline, yes.

4 Q. Can you narrow that for me at all?
5 Do you remember what season or what month that
6 occurred?

7 A. I'm sorry, I don't.

8 Q. And you said your job
9 responsibilities changed several times?

10 A. That's correct.

11 Q. How did they change the next time
12 they changed?

13 A. The next time I was assigned to
14 construction, tenant alterations, project
15 management.

16 Q. And how was that different from --
17 sorry, let me go back.

18 When you split up the systems, you
19 said you broke them down by building. What were
20 your responsibilities at that point?

21 MR. REYNOLDS: Object to the
22 characterization of the testimony with
23 respect to systems. You can answer the
24 question.

25 A. At that point, I was assigned the

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2 maintenance responsibilities for Tower 2 only.

3 Q. And do you remember approximately how
4 long you were in that position?

5 A. I guess it may have been a year,
6 thereabouts, give or take.

7 Q. And then you became responsible for
8 construction, tenant alteration projects --

9 A. Management.

10 Q. It would be tenant alterations and
11 project management, correct?

12 A. Yes.

13 Q. Why did that change occur, if you
14 know?

15 A. I don't know.

16 Q. Do you recall who told you you would
17 be changing from one to the other?

18 A. My manager.

19 Q. And who was that?

20 A. John Castaldo.

21 Q. Did the Port Authority continue --
22 strike that.

23 You testified that at some point in
24 1999, we, by which I understand you to mean the
25 Port Authority, was that correct?

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2 A. Well, the World Trade Department.

3 Q. Okay, the World Trade Department,
4 broke the area down into distinct buildings.
5 When you moved on to construction, tenant
6 alteration and project management, did the World
7 Trade Department continue to operate the complex
8 in that manner?

9 MR. BLATNIK: Object to the form of
10 the question.

11 MR. REYNOLDS: Misstates and
12 mischaracterizes testimony. You can answer.

13 A. As far as I can tell, yes. I was no
14 longer involved in the day-to-day operations,
15 but it seemed to me that that's the way they
16 were conducting business.

17 Q. And approximately at what point did
18 you change areas of responsibility?

19 MR. REYNOLDS: You mean the next
20 change?

21 Q. No, no. I'm still focusing on the
22 change from when you were working with regard to
23 maintenance on Tower 2 to when you changed to
24 project --

25 A. Let's just say project management.

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2 Q. Thank you.

3 A. You're welcome.

4 Q. Approximately how long were you in
5 the position of working with project management?

6 A. I would guess about a year.

7 Q. Do you remember -- I'm sorry if I
8 already asked you this. Do you remember at what
9 point you made that change to project
10 management?

11 A. No, I don't.

12 Q. Do you remember at what point you
13 moved from doing project management to another
14 area of responsibility?

15 MR. REYNOLDS: Object to lack of
16 foundation.

17 A. It was right around the time that the
18 lease was signed.

19 Q. And at that point, your areas of
20 responsibility changed again?

21 A. At that time, I was named to the
22 transition team, to help Silverstein Properties
23 take over the complex.

24 Q. And that was around July 2001?

25 A. Yes, or shortly before. If I had my

1 Malopolski-Confidential

2 diary, I'd be able to give you exact dates, but
3 that's been lost.

4 Q. Are you aware of who took over your
5 responsibilities after you left the position of
6 being responsible for Tower 2?

7 A. Genaro Pipitone.

8 Q. Can you spell that name for me,
9 please?

10 A. Which one?

11 Q. Both.

12 A. G E N N A R O, P I P I T O N E. Did
13 I get it right? Too many N's in Genaro; there
14 is only one.

15 Q. When you were responsible for Tower
16 2, who was responsible for the other areas you
17 mentioned?

18 MR. REYNOLDS: Objection to form. If
19 you understand the question, you can answer
20 it.

21 A. I don't understand what you're asking.

22 Q. You testified that, "We," meaning the
23 World Trade Department, "divided up into,
24 instead of having an entire central system of
25 performing maintenance, we broke the area down

1 Malopolski-Confidential

2 into distinct buildings, Tower 2, Tower 1, Tower
3 4, Tower 5, public space. And we divided it up
4 into groups that would concentrate only on their
5 specific areas." Correct?

6 A. Correct.

7 Q. And you testified that your specific
8 area was Tower 2, correct?

9 A. Correct.

10 Q. I'm trying to determine who was
11 responsible for the other specific areas?

12 A. I don't recall.

13 Q. Did you work with those people in the
14 course of your responsibilities?

15 A. Yes, but no longer were we
16 coordinated. I mean we were all like in
17 different buildings. We had distinct staffs;
18 where before we would share everyone and
19 dispatch them from a central location, from that
20 point on, we did not leave the confines of our
21 properties. And I don't recall who had the
22 other properties.

23 Q. Did you communicate with those people
24 in the course of your responsibilities in Tower
25 2?

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2 A. No. As I said, they were managed as
3 different properties and it would be like if we
4 were here and the people across the street were
5 in a different building, that's how distinct it
6 was.

7 MS. GIFFIN: Let me introduce a
8 document labeled PORT/SRI 076953 to 076954.

9 (Malopolski Exhibit 5, document
10 bearing Bates Nos. PORT/SRI 076953 and 954,
11 marked for identification, as of this date.)

12 Q. Have you had a chance to review that,
13 sir?

14 A. Yes.

15 Q. Have you seen this document before?

16 A. No.

17 Q. Do you know who Alan Reiss is?

18 A. Yes.

19 Q. Who is he?

20 A. Now he's the assistant director of
21 aviation, Port Authority.

22 Q. And what position did he hold prior
23 to July 24th, 2001?

24 A. Director of World Trade Department.

25 Q. Did you work for him?

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2 A. Yes.

3 Q. For how long did you work for him?

4 A. In some way or other, virtually the
5 entire time I was with the World Trade Center.

6 Q. Did you have a good working
7 relationship with Mr. Reiss?

8 A. Yes.

9 Q. Mr. Reiss -- are you aware whether
10 Mr. Reiss was familiar with the World Trade
11 Center mechanical system?

12 A. Very familiar, yes.

13 Q. Do you see in this email, Mr. Reiss
14 is referring to an operational nightmare. See
15 that sentence?

16 A. Yes, I do.

17 Q. Mr. Reiss says that he's realized "It
18 is an operational nightmare, not just to
19 segregate and meter different utility feeds, but
20 also to operate the systems in separate
21 buildings without possibly impacting the life
22 safety or operation of another." Do you see
23 that?

24 A. Yes, I do.

25 Q. Do you agree with that

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2 characterization?

3 A. Yes.

4 Q. Can you tell me, in light of that
5 characterization, how the process you've just
6 described, operating the buildings as separate
7 buildings, worked?

8 MR. REYNOLDS: Object to the form.

9 A. I was never a proponent of that
10 system, that method of operation. I didn't
11 think it worked well.

12 Q. Didn't work smoothly?

13 A. Did not work well.

14 Q. Why not?

15 MR. REYNOLDS: Object to the form of
16 the last question. Go ahead.

17 A. For some of the reasons that Mr. Reiss
18 outlines, and because when the complex was
19 constructed, it was built with a central plan in
20 mind, so to try to carve it up artificially was
21 way too complex. It would have required a
22 massive amount of reconstruction to make it
23 distinct properties. They were just too
24 interconnected.

25 It's almost like when you have

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2 conjoined twins and then you have to decide who
3 gets what systems, is there enough for
4 everybody? That type of thing.

5 Q. I'd like to look at some of the
6 examples that Mr. Reiss offers. Mr. Reiss talks
7 about "The fire standpipe systems in the towers
8 are not independent because they interconnect at
9 the B1 level." That's correct, isn't it?

10 A. Yes, it is.

11 Q. And the emergency power to the fire
12 standpipe pump system was also designed to
13 operate -- sorry, let me just read the sentence.
14 "The emergency power to the fire standpipe pump
15 system is designed to operate only B1 or 2 WTC
16 pump on emergency, but not both." Do you see
17 that?

18 A. Yes.

19 Q. Have I read that correctly?

20 A. Yes, you have.

21 Q. And that was part of the
22 interconnectedness of the fire suppression
23 system, is that correct?

24 MR. REYNOLDS: Object to the form.

25 A. Yes.

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2 Q. And similarly, Mr. Reiss
3 characterized the sprinkler system as
4 interconnected, and that's also correct?

5 MR. REYNOLDS: Object to the form,
6 characterization of the document.

7 Q. For your reference, sir, I'm looking
8 at paragraph number 2 now.

9 A. Okay. For the part of the system
10 that he mentions in that paragraph, yes. But
11 when you get outside of the area he's talking
12 about, no, because he's outlined the sprinkler
13 system for the subgrade plaza mall and Customs
14 House, all the loading zones, but when you get
15 up into the towers themselves, the sprinkler
16 systems were distinct and separate.

17 Q. We'll talk about those sprinkler
18 systems in a little while. But for now, am I
19 understanding you correctly that paragraph 2 is
20 correct?

21 A. Paragraph 2 is correct in what it
22 says, yes, but we cannot infer that it goes
23 beyond the narrow scope of what he talks about
24 there.

25 Q. And in paragraph 4, Mr. Reiss

1 Malopolski-Confidential

2 discusses the power from the subgrade A and B
3 tower substation, is that correct?

4 A. Yes.

5 Q. TWR in that sentence is meant to
6 reference tower, is that how you understand
7 that?

8 A. Yes.

9 Q. And he offers that as another example
10 of how it would be an operational nightmare to
11 segregate the system, is that correct?

12 MR. REYNOLDS: Object to the form.

13 A. In the context that he's talking
14 about, yes. See, what he's talking about here
15 is the difficulty in segregating costs, because
16 there were multiple areas that were served by
17 the same substation. I don't think that you can
18 say that it was impossible to separate them for
19 operational purposes, just that it would be
20 difficult to say where the power came from for,
21 say, the parking garage on the B2 subgrade
22 level.

23 Q. Operationally speaking, in your
24 opinion, it was not best to run the systems as
25 separate systems, though, is that correct?

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2 MR. REYNOLDS: Object to the form.

3 A. I didn't say that.

4 Q. I'm sorry. Is that correct, or do
5 you disagree with that statement?

6 A. I don't understand the question.

7 Q. A little earlier I asked you a
8 question about how the buildings were operated
9 as separate buildings, and you testified that
10 you were never, never a proponent of that
11 system, that method of operation. That's
12 correct, isn't it?

13 A. That's correct. I didn't say it
14 couldn't be done; I just said I didn't think it
15 was a good idea.

16 Q. In connection with your job
17 responsibilities, you became familiar with the
18 heating and ventilation system for the World
19 Trade Center complex, correct?

20 A. Correct.

21 Q. Can you tell me where that was
22 located?

23 A. It was located all over the place.

24 Q. Can you expand on that a little bit?

25 A. To be more specific, in the towers,

1 Malopolski-Confidential

2 the HVAC was located on the B6 level, the 7th
3 floor, the 41st floor, the 75th floor and the
4 108th floor.

5 Q. And the floors you've just referred
6 to, those are called mechanical equipment rooms?

7 A. Or for short, MER's, yes. And then
8 there were other MER's throughout the complex
9 for the other buildings.

10 In the 4 World Trade Center, there
11 was a 285 subgrade level; that's an elevation,
12 285 MER. We refer to it by its elevation, a
13 relative to a datum. A lot of things were
14 referred to in terms of the USGS datum, as to
15 where they were relative to sea level. So this
16 is a 285 MER, let's say, B1, B2, subgrade level,
17 and the 9th floor.

18 And then in 5 World Trade Center,
19 there was a mechanical room on the 282 level,
20 and the 9th floor. And there were various
21 mechanical rooms tucked around the concourse for
22 different stores and whatnot.

23 And I'm not familiar with the
24 mechanical rooms in the Customs House. We were
25 not allowed entry to that area generally.

1 Malopolski-Confidential

2 Q. For the record, you said -- you
3 referred to 285 as a reference number, is that
4 correct?

5 A. An elevation.

6 Q. Can you tell me exactly what 285 is
7 meant to describe?

8 A. There's a USGS, United States
9 Geological Survey, datum point for all different
10 levels in Manhattan. And the concourse level at
11 the World Trade Center was 310. Anything below
12 that was measured in feet; for instance, the B6
13 mechanical room would be level 242, or 68 feet
14 below the lobby.

15 So that's the way that a lot of
16 things were referred to. When you went below
17 grade, you're talking elevations rather than
18 floors, because some things were not located on
19 a floor and it might be located between floors,
20 such as exhaust fans or truck dock and garage
21 exhaust.

22 Q. Are you finished with your answer?

23 A. Yes.

24 Q. I wanted to make sure I didn't
25 interrupt you. You've described several

1 Malopolski-Confidential

2 mechanical equipment rooms and locations. Were
3 those designed to work together within the World
4 Trade Center complex?

5 A. I don't understand what you mean by
6 together.

7 Q. Well, did they -- did the operations
8 for each of those locations affect the
9 operations at the other locations?

10 A. No.

11 Q. If one broke down, would it affect
12 the way the rest of the system functioned?

13 A. No.

14 MS. GIFFIN: I'd like to introduce
15 Exhibit 6, PORT/SRI 152670 through 152671.

16 (Malopolski Exhibit 6, document
17 bearing Bates Nos. PORT/SRI 152670 and 671,
18 marked for identification, as of this date.)

19 Q. Have you seen this document before,
20 sir?

21 A. I'm on the copy line, I may have.
22 But I saw a lot of documents exactly like this,
23 maybe hundreds, so this specific one, I imagine
24 I did.

25 Q. Can you tell me what this email is

1 Malopolski-Confidential

2 discussing, please?

3 A. An electrical shutdown.

4 Q. On June 28th, 2001, correct?

5 A. Yes.

6 Q. I'm reading the subject line for the
7 email. Were electrical shutdowns of this sort
8 common at the World Trade Center?

9 A. Yes.

10 Q. I'd like to refer you to the bottom
11 of this document?

12 A. First page?

13 Q. Yes. There's a paragraph towards the
14 bottom of that page there, do you see that?

15 A. Yes.

16 Q. And the second sentence of that
17 paragraph reads, "This shutdown will occur in
18 substation 41 south, located in Tower A. It
19 will affect all power (120/208V and 277/480V)
20 supplied from the south electric closet, located
21 on floors 25 through 58, as well as various
22 elevators and mechanical equipment." Do you see
23 that?

24 A. Yes.

25 Q. Have I read that correctly?

1 Malopolski-Confidential

2 A. Yes.

3 Q. Can you describe for me what
4 substation is being discussed here? Can you
5 describe for me its location?

6 A. It's an electrical substation on the
7 41st floor of Tower A, south side.

8 Q. And this shutdown was expected to
9 affect various systems within the World Trade
10 Center complex, is that correct?

11 MR. REYNOLDS: Object to the form.

12 A. That's correct.

13 Q. If I could refer you now to the
14 second page, there's a sentence that starts on
15 the first page and spills over to the second
16 page and says, "Below is a list of all affected
17 areas." Correct?

18 A. Correct.

19 Q. And in that list, there's a reference
20 to SE quadrant and another reference to SW
21 quadrant, do you see those?

22 A. Yes, I do.

23 Q. Can you tell me what that is meant to
24 refer to?

25 A. The towers were divided into

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2 quadrants defined by the cross corridors. If
3 you have ever been in the building, in the
4 center there were corridors that ran just like a
5 cross, north, south, east, west, depending on
6 what tower you were in. And the quadrants were
7 named northeast, northwest, southeast,
8 southwest, depending upon their geographic
9 locations.

10 Q. So the reference on this list is
11 meant to indicate what?

12 A. The southeast and the southwest
13 quadrants.

14 Q. Of the World Trade Center complex?

15 A. Of Tower 1 in the vicinity of the
16 25th to the 58th floor.

17 Q. That would be affected by the
18 shutdown of this electrical station?

19 A. Correct.

20 Q. There's also a reference to "Kitchen
21 Tower Panel L44S/B." Do you see that?

22 A. Yes.

23 Q. What is that meant to refer to?

24 A. On the 43rd floor there's a
25 cafeteria, or was a cafeteria, and apparently

1 Malopolski-Confidential

2 the lighting panel --

3 MR. REYNOLDS: Right there.

4 A. Lighting panel 44 south, lighting
5 panel B, could be a circuit breaker box which
6 controlled power to the kitchen. This says that
7 that would be out of service at that time.

8 MS. GIFFIN: Let me introduce the
9 next exhibit, which is PORT/SRI 162355 to
10 356.

11 (Malopolski Exhibit 7, document
12 bearing Bates Nos. PORT/SRI 162355 and 356,
13 marked for identification, as of this date.)

14 THE WITNESS: Unknown? I don't know
15 that person.

16 MR. REYNOLDS: He doesn't know
17 himself.

18 Q. Have you seen this document before,
19 sir?

20 A. I may have, but I don't recall.

21 Q. This document is a series of emails
22 exchanged amongst various people, is that a fair
23 characterization?

24 A. Yes.

25 Q. And as I understand it, the top email

1 Malopolski-Confidential

2 is sent from an individual named Nancy Seliga,
3 and was not sent to you, but that the email
4 directly below it was sent to you?

5 A. I am on the copy line, that's
6 correct.

7 Q. Do you have any reason to believe you
8 did not receive that email message with the
9 other email message attached --

10 A. I do not.

11 Q. -- on or around the date of June
12 27th, which is on that line?

13 A. Sure.

14 Q. Can you tell me what is the subject
15 matter of this exchange of emails, please?

16 A. This is a notification that we were
17 going to be shedding load, electrical load.
18 From time to time during the summer, Con Edison
19 would ask if we would reduce our power
20 consumption, and we would be able to identify
21 equipment which could be taken off line to save
22 electric usage.

23 And we would isolate that equipment
24 in order to cut down our peak demand and to help
25 the entire power grids stay healthy, not put an

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2 undue draw, because we pulled a lot of power.

3 Q. And when you referred to our in that
4 answer, you being the World Trade Center
5 complex?

6 MR. REYNOLDS: Object to the form.

7 A. Correct.

8 MS. GIFFIN: I believe we're about to
9 run out of time on the videotape, so let's
10 take a short break.

11 THE VIDEOGRAPHER: Time is 3:39. This
12 completes tape number one.

13 (Recess taken.)

14 THE VIDEOGRAPHER: The time is 3:50.
15 This begins tape number 2 of the videotaped
16 deposition of Mr. Dennis Malopolski.

17 BY MS. GIFFIN:

18 Q. Sir, you were testifying about
19 Exhibit 7 prior to our break. And you described
20 it as an email exchange in which you were able
21 to identify equipment that could be taken off
22 line to save electric usage, correct?

23 A. Correct.

24 Q. Who was responsible for identifying
25 which equipment could be taken off line at the

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2 World Trade Center complex in response to this
3 request?

4 MR. REYNOLDS: Object to the form.

5 A. This is a list of equipment that will
6 be taken off line. This has already been
7 decided.

8 Q. And who was responsible for that
9 decision?

10 A. We had decided this by consensus
11 years ago, because there is certain redundant
12 equipment; there is certain sectionalization of
13 the buildings. And as we saw in the electrical
14 shutdown on the previous exhibit, you can take
15 out a substation that would only take out a
16 block or a portion of the tower and a portion of
17 the floor.

18 So many years ago we sat down and
19 between electrical, mechanical and operations,
20 and we decided what we could live without and
21 still maintain full functionality so that the
22 tenants would not be inconvenienced while saving
23 electricity.

24 Q. And there's a list in the middle of
25 the page of four items that are identified as

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2 systems you would be shutting down, is that an
3 accurate characterization?

4 MR. REYNOLDS: Objection to the
5 characterization of the document.

6 A. Are you referring to lobby
7 chandeliers, plaza fountain, tower MERs, and
8 subgrade exhaust fans, is that what you're
9 referring to.

10 Q. That's exactly right.

11 A. Yes.

12 Q. These are shared systems between the
13 World Trade Center Twin Towers, correct?

14 MR. REYNOLDS: Object to the
15 characterization.

16 A. No. The lobby chandeliers are
17 distinct in each tower.

18 Q. When you made the decision to shut
19 down the lobby chandeliers, how do you go
20 about -- strike that.

21 When you shut down the lobby
22 chandeliers, how do you go about doing that?
23 How did you go about doing that?

24 A. We would assign a contract
25 electrician to go and turn off the switch.

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2 Q. Was there just one switch that
3 operated the chandeliers in the World Trade
4 Center complex?

5 MR. REYNOLDS: Object to the form.

6 A. I don't know. I would assume there
7 would be a panel box or perhaps a series of
8 circuit breakers that would, you know, handle
9 different zones.

10 Everything was broken down into
11 quadrants and zones. And when you design
12 systems like the World Trade Center, you want to
13 have the ability to be able to isolate portions
14 of it without taking the whole business out of
15 service so that you could perform maintenance.

16 So if you wanted to do work on the
17 electrical system that served the lobby
18 chandeliers, I would imagine that you'd have the
19 largest -- the smallest piece would be, or the
20 largest rather would be a quadrant.

21 And you would probably have
22 breakdowns inside there. You might have this
23 row, the next row and the row after that on
24 separate circuit breakers. But in any event,
25 they would all be in the same spot

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2 Q. And was that -- would that also be
3 true for the tower MERs return fans?

4 A. No. Someone, a mechanical person
5 would be assigned to go to each one of the MERs
6 and turn off the fans. As I said before, there
7 was B6, 7, 41, 75 and 108. And this refers to
8 return fans on all of those floors, and further
9 return fans for all of the quadrants.

10 So each quadrant would have three
11 return fans, and we'd be turning one off, so
12 that would mean four fans on each mechanical
13 room floor, or 20 for each tower.

14 Q. And it was decided that those return
15 fans throughout the complex were fans that you
16 could essentially do without during this load
17 shedding, is that correct?

18 MR. REYNOLDS: Objection to
19 characterization.

20 A. Correct.

21 Q. And similarly, the subgrade exhaust
22 fans were fans that you could do without during
23 this load shedding, correct?

24 MR. REYNOLDS: Object to
25 characterization.

1 Malopolski-Confidential

2 A. Selected fans, not all the subgrade
3 exhaust fans, but just some of the subgrade
4 exhaust fans. There was a lot of redundancy in
5 the equipment, like a belt and suspenders,
6 almost.

7 Q. If I could refer you to the second
8 page of this document.

9 MR. REYNOLDS: I said I would bring
10 it up and I forgot to before we went back on
11 the record, but Mr. Malopolski does need to
12 leave by 5:00 as his departure time, and I
13 just wanted to let you know that.

14 MS. GIFFIN: I understand that
15 Mr. Malopolski has some family demands that
16 make it necessary for him to leave that
17 early, am I correct?

18 MR. REYNOLDS: That's correct.

19 MS. GIFFIN: It seems unlikely to me
20 that I will cover all the material that I
21 need to cover with him. And I understand
22 that he has family needs and I want to be
23 able to allow him to meet those
24 responsibilities, but I want to be on the
25 record reserving our right to, as to this

1 Malopolski-Confidential

2 particular witness, complete the deposition
3 as soon as we can all get into the same
4 place at the same time.

5 MR. REYNOLDS: I will note that this
6 deposition was moved to today at the request
7 of Carolyn Williams of your firm, who asked
8 that it be moved to this afternoon to
9 accommodate her schedule, and who said that
10 if she got him at 1:30, she would only take
11 three hours and that was plenty of time.

12 So whatever rights you have, which I
13 think are minimal, you can reserve them.
14 But we will not voluntarily agree to produce
15 Mr. Malopolski again.

16 Q. We were talking about the second page
17 of this document, sir. And this portion of the
18 document is discussing elevators and the effect
19 of the shutdown on elevators, is that a fair
20 characterization?

21 A. Yes.

22 Q. Can you tell me what information,
23 what is this meant to convey, the information
24 contained on this page?

25 A. I'm not familiar with the elevator

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2 system, but to me, it looks like a list of
3 specific elevator cars that would be taken out
4 of service.

5 Q. And this list refers to four
6 buildings within the World Trade Center complex
7 and escalators as well, correct?

8 A. Correct.

9 MS. GIFFIN: I'd like to introduce
10 the next document which is PORT/SRI 143655.

11 (Malopolski Exhibit 8, document
12 bearing Bates No. PORT/SRI 143655, marked
13 for identification, as of this date.)

14 Q. Have you seen this document before,
15 sir?

16 A. I don't recall, but I am on the copy
17 line so I may have.

18 Q. Do you have any reason to believe you
19 would not have received this email on or about
20 July 25th, 2001?

21 A. None.

22 Q. What is the subject matter of this
23 email, please?

24 A. It similarly looks exactly like the
25 one we saw before, which calls out, I believe

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2 individual elevator cars to be taken out of
3 service.

4 Q. This email refers to a shutdown for
5 today's power reduction, do you see that?

6 A. Yes.

7 Q. Is that similar or the same as the
8 load shedding we discussed a moment ago?

9 A. I believe it's exactly the same.

10 Q. And these are systems that have been
11 identified as systems that the World Trade
12 Center complex would shut down as a result of
13 the power reduction, correct?

14 MR. REYNOLDS: Object to
15 characterization.

16 A. Correct.

17 Q. In connection with your job
18 responsibilities, did you become familiar with
19 the use of steam in the World Trade Center
20 complex?

21 A. Yes.

22 MS. GIFFIN: I'd like to introduce
23 the next exhibit in sequence, PORT/SRI
24 166507.

25 (Malopolski Exhibit 9, document

1 Malopolski-Confidential

2 bearing Bates No. PORT/SRI 166507, marked
3 for identification, as of this date.)

4 Q. Have you had a chance to review that
5 document, sir?

6 A. Yes, I have.

7 Q. Have you seen it before?

8 A. Yes, I have.

9 Q. What is it, please?

10 A. It's a notice of a steam shutdown.

11 Q. Did you receive this document on or
12 about July 19th, 2001?

13 A. Yes, I did.

14 Q. Is it your understanding that Philip
15 Hamann -- am I pronouncing that correctly?

16 A. Hamann.

17 Q. Is the author of this document?

18 A. Yes.

19 Q. The second sentence of this
20 memorandum reads, "To facilitate this work, it
21 will be necessary to shut down the main steam
22 supply to the complex." Do you see that
23 sentence?

24 A. Yes.

25 Q. What is the main steam supply to the

1 Malopolski-Confidential

2 complex?

3 A. There was one main line that came up
4 the utility rack which fed the whole complex.

5 Q. Where was the utility rack for the
6 World Trade Center located?

7 A. It ran from Barclay Street to Liberty
8 Street, just the west side of the 1 and 9 subway
9 at the B1 level, also known as the main truck
10 dock of the World Trade Center complex.

11 Q. Do you have an understanding of what
12 the purpose was of distributing this memorandum
13 on July 19th, 2001?

14 A. Yes. There would be a reduced
15 availability of steam throughout the complex and
16 this would be to notify the property management
17 people and the people operating the building at
18 that time that this was going to be happening.

19 Q. In the course of your job
20 responsibilities, did you come to understand the
21 fire suppression system at the World Trade
22 Center complex?

23 MR. REYNOLDS: Object to the form of
24 the question.

25 A. Yes, somewhat.

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2 Q. Can you describe for me briefly what
3 you understood about the World Trade Center fire
4 suppression system?

5 MR. REYNOLDS: Object to the form and
6 object to the characterization.

7 A. I'm not an expert in that part of the
8 business, but as I understand it, there are
9 sprinkler systems and standpipe systems to
10 distribute water for fire suppression. Also
11 smoke alarms, smoke detectors, speaker and
12 strobe systems to alert tenants of an alarm
13 condition. And there is also a series of fire
14 command stations throughout the complex which
15 were staffed to provide control of the system.

16 Q. Were you familiar with the sprinkler
17 systems in the World Trade Center complex prior
18 to September 11th, 2001?

19 A. Yes.

20 Q. Are you familiar with the term
21 sectionalizing valves?

22 A. Yes.

23 Q. Can you describe for me what that
24 term means, please?

25 A. When you have a mechanical system,

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2 like a sprinkler system, a piping system, you
3 would want to be able to work on different
4 portions of it while keeping other portions
5 active, so there would be valves called
6 sectionalizing valves whereby you could close
7 off just a portion of the system and keep the
8 rest of it active.

9 Let's say like a pizza pie that was
10 cut into eight sections, you could work on one
11 piece of the pie and have the other 7/8ths still
12 active so you wouldn't have to shut the whole
13 thing down if you needed to do any maintenance
14 or repairs.

15 Q. Do you know if there were
16 sectionalizing valves on the sprinkler system in
17 the World Trade Center?

18 A. Yes, there were.

19 Q. Do you know where they were located?

20 A. Some of them, yes.

21 Q. Can you tell me where? For those
22 that you know the location, can you tell me --
23 strike that. That was a bad question.

24 Where were the ones you knew about?

25 A. I had created a map of the public

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2 spaces on the concourse at the World Trade
3 Center, where I did a survey and identified all
4 of the sectionalizing valves.

5 Q. Do you still have that map?

6 A. I was able to obtain a copy of it and
7 I passed it on to Tim Stickelman.

8 Q. I assume that's been produced?

9 A. I did not have a copy. I was
10 fortunate that I was able to contact the
11 consultant that I worked with and he retained a
12 copy.

13 Q. Who is the consultant you worked
14 with?

15 A. Myer, Strong & Jones, an engineering
16 firm in New York City.

17 Q. Who is the individual you worked with
18 at that engineering firm?

19 A. Charles Magnelli.

20 Q. Are you familiar with the status of
21 the fireproofing at the World Trade Center prior
22 to September 11th, 2001?

23 A. Can you repeat it? I missed one of
24 the your words.

25 Q. Yes. Were you familiar with the

1 Malopolski-Confidential

2 status of the fireproofing at the World Trade
3 Center prior to September 11th, 2001?

4 MR. REYNOLDS: I object to the form.

5 A. I don't know what you mean by status.

6 Q. Were you familiar with the extent to
7 which the World Trade Center had been
8 fireproofed? Strike that. Let me try again.

9 Was there fireproofing at the World
10 Trade Center?

11 A. Yes.

12 Q. Can you describe for me what you know
13 about that fireproofing, please?

14 A. Steel members were coated with
15 fireproof material.

16 Q. Do you know the extent to which steel
17 members were coated with fireproof material at
18 the World Trade Center prior to September 11th,
19 2001?

20 MR. REYNOLDS: Object to the form of
21 the question.

22 Q. You can answer.

23 A. I believe all the steel was coated
24 with fireproofing.

25 Q. Are you familiar with a project

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2 within the Port Authority to upgrade the
3 fireproofing in the World Trade Center?

4 A. I don't understand the question.

5 MR. BLATNIK: I also object to the
6 form of the question.

7 Q. Are you aware of whether the Port
8 Authority made any decisions within the last
9 five years to upgrade the fireproofing at the
10 World Trade Center complex?

11 A. I'm not --

12 MR. REYNOLDS: Object to the form of
13 the question.

14 A. I'm not privy to those, that kind of
15 information.

16 Q. Who would make that kind of decision?

17 MR. REYNOLDS: Object to the form of
18 the question. You can answer.

19 A. Engineering and risk management.

20 Q. And by engineering, are you referring
21 to the engineering division at the Port
22 Authority?

23 A. Correct.

24 MS. GIFFIN: I'd like to introduce
25 the next exhibit which is 10, PORT/SRI

1 Malopolski-Confidential

2 166104 through 111.

3 (Malopolski Exhibit 10, document
4 bearing Bates Nos. PORT/SRI 166104 through
5 111, marked for identification, as of this
6 date.)

7 Q. Have you seen that document before,
8 sir?

9 A. Yes.

10 Q. Can you tell me generally what the
11 subject matter is of this document?

12 A. It refers to a tenant alteration that
13 Morgan Stanley Dean Witter did in 5 World Trade
14 Center, fourth floor.

15 Q. And this is an exchange of emails
16 over the course of several days in March 2001,
17 correct?

18 A. A virtual flurry of emails, yes.

19 Q. And did you receive these emails?

20 A. Yes.

21 Q. On or about the dates that are here
22 indicated?

23 A. Yes.

24 Q. I'd like to refer you to a line in
25 the middle of the first paragraph at the top of

1 Malopolski-Confidential

2 the first page that says, "You are correct that
3 WTD's fire alarm system is proprietary and
4 therefore requires special attention."

5 A. Where is that?

6 Q. In the middle of the first paragraph. X

7 A. Oh, middle of the first -- okay.

8 Q. Do you have an understanding --
9 first, do you know what WTD is meant to refer
10 to?

11 A. World Trade Department.

12 Q. Did the World Trade Department have a
13 proprietary fire alarm system at the World Trade
14 Center?

15 A. Yes.

16 Q. In what sense was it proprietary?

17 A. It was built expressly for the World
18 Trade Center. There was none other like it.

19 Q. And it was built for the entire World
20 Trade Center, correct?

21 A. Yes. There were a lot of things at
22 the World Trade Center that were different than
23 anywhere else.

24 Q. If I could refer you to page 166106.
25 Sir, there is a sentence -- and this document is

1 Malopolski-Confidential

2 a little difficult to read.

3 A. It is.

4 Q. But there is a sentence which begins,
5 "If you choose to proceed in that direction"?

6 A. Yes.

7 Q. And the end of that sentence states
8 that "Occupancy will require that the fire alarm
9 system work as a whole." Do you see that?

10 A. Yes, I do.

11 Q. Do you have an understanding of what
12 that was meant to convey?

13 A. Yes.

14 Q. Can you tell me, please?

15 A. They were building out a whole floor
16 and they wanted to move people in. And we were
17 stressing the fact that the fire alarm system
18 would have to work for the whole floor.

19 Q. Before they could move in?

20 A. Before they could move people into
21 the space, yes.

22 Q. And that system had to work with the
23 World Trade Center's proprietary system, is that
24 correct?

25 MR. REYNOLDS: Object to

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2 mischaracterization. Lacks foundation.

3 A. It was the World Trade Center
4 proprietary system. They were, they would
5 receive -- when they did a tenant alteration
6 application, they would receive specifications
7 that would demand that they build the fire alarm
8 system a certain way.

9 Q. And it was their responsibility to
10 make sure that their fire alarm system was built
11 to function with the proprietary system at the
12 World Trade Center?

13 MR. REYNOLDS: Object to
14 characterization.

15 A. That was, in fact, the proprietary
16 system; not that it was built to work with it,
17 but that they in fact built the system the same
18 way as the system was built throughout the
19 entire complex. So the specifications were very
20 specific.

21 Q. I'd like to return briefly to our
22 discussion about sectionalizing valves in the
23 sprinkler system at the World Trade Center.
24 Were those manually operated?

25 A. Except for four valves, yes.

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2 Q. Meaning that in order to operate
3 them, one had to be physically at the site where
4 the sectionalizing valve was, correct?

5 MR. REYNOLDS: Object to the form.

6 A. Except for the four that had motor
7 operators, that is correct.

8 Q. Do you recall, sitting here today,
9 where the four that had motor operators were
10 located?

11 A. Yes, I do.

12 Q. Where were they?

13 A. Two of them were in the ceiling of
14 the Sbarro Restaurant.

15 Q. Sbarro Restaurant was in the retail
16 mall of the World Trade Center, is that --

17 A. Correct.

18 Q. And the other two?

19 A. The other two were just outside of
20 the north tower, Tower 1. I think it was a new
21 tenant, Thomas Pink, that that space was being
22 built out and the motor operators were put in
23 there. We put in motor operators where it was
24 difficult or impossible to get to the valves.

25 Q. Were those two also in the retail

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2 mall area of the World Trade Center?

3 A. Yes.

4 Q. From where could one operate the
5 motor operators for these sectionalizing valves?

6 A. They would be put out in a space that
7 was easily accessible. For instance, Sbarro's
8 motor operators were operated from the service
9 corridor behind the restaurant.

10 Q. Still in the retail mall?

11 A. Yes.

12 Q. And the other two, do you know where
13 they were operated from?

14 A. They were in the process of being
15 wired up to operate from a hallway that went
16 down to the operations control center, once
17 again, outside the retail space but also outside
18 the public space, somewhere where only World
19 Trade personnel would be --

20 Q. And you said they were in the
21 process. Do I understand you correctly that
22 that process was not complete as of September
23 11th, 2001?

24 A. That's correct.

25 Q. So it wouldn't have been possible to

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2 operate those on September 11th, 2001?

3 A. It would have been possible because
4 they were readily accessible at that time
5 because the space was under renovation. When
6 the space was complete, they would have been
7 buried inside a finished ceiling where it would
8 have been difficult to get to.

9 Q. So on September 11th, if you could
10 physically get to those sectionalizing valves,
11 you could operate them manually, but you could
12 not yet operate them from a remote location, is
13 that correct?

14 A. That's correct.

15 Q. Do you have an understanding of the
16 term fire pumps?

17 A. Yes.

18 Q. Can you tell me briefly what that
19 means?

20 A. Pumps that would move water for fire
21 suppression.

22 Q. And were there fire pumps at the
23 World Trade Center?

24 A. Yes.

25 Q. Do you know where they were located?

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2 A. Yes.

3 Q. Can you tell me, please?

4 A. They were in different areas, in
5 mechanical spaces.

6 Q. Were the fire pumps at the World
7 Trade Center manually operated?

8 A. Yes.

9 Q. Could they be activated remotely?

10 A. Yes, in some cases.

11 Q. In which cases?

12 A. I believe the ones in the 294
13 mechanical rooms. Once again, that's an
14 elevation.

15 Q. Can you tell me which floor those 294
16 mechanical rooms were on?

17 A. That would be the service level, just
18 below the concourse. Concourse being 310, 294
19 would be 16 feet below that, which would be the
20 service level, what we call the B1 level.

21 Q. Were there any other fire pumps that
22 could be activated remotely?

23 A. When you say remotely, do you also
24 mean on automatic control? Because there were
25 pumps that would come on if there was a drop in

1 Malopolski-Confidential

2 the pressure, specifically the ones that we were
3 just talking about.

4 If there was -- let's say that a
5 sprinkler head was activated and the pressure
6 inside the head dropped, those pumps would
7 automatically start by themselves with no one
8 doing anything. It would be an automatic
9 control.

10 Q. Setting aside those kinds, that kind
11 of automatic control that would come on when
12 there was a pressure drop, if I understand what
13 you're saying, was it possible to activate the
14 fire pumps remotely?

15 MR. REYNOLDS: Object to the form of
16 the question.

17 A. Not in all cases.

18 Q. In any cases?

19 A. I can't really recall, except for the
20 specific ones that we just talked about.

21 Q. On the B1 level?

22 A. Yes.

23 Q. And you can't recall any others as
24 you sit here today?

25 A. Well, see, when you get into fire

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2 pumps, you have to get into domestic water pumps
3 too, because domestic water and fire suppression
4 water are the same. So there were a lot of --
5 if we talk about the fire reserve tanks that fed
6 the sprinkler system, they were on automatic
7 makeup and they were fed from the domestic water
8 system.

9 So if you had a drop in level in the
10 fire reserve tanks, they would automatically
11 fill on pressure control. That was a
12 transparent system; no one had to do anything.

13 Q. Setting aside those automatic
14 responses, was there a way in which it was
15 possible to activate a fire pump from some
16 location that wasn't next to the fire pump,
17 again setting aside the automatic responses you
18 just described?

19 A. No.

20 Q. Mr. Malopolski, I hope to be able to
21 come back and discuss with you some of the work
22 you did after the 1993 bombing, but for the
23 moment, let me skip ahead.

24 Were you, during calendar year 2001,
25 were you ever asked to provide information about

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2 the mechanical system of the World Trade Center
3 to anyone in connection with the World Trade
4 Center lease?

5 A. Yes.

6 Q. To whom did you provide such
7 information?

8 A. Anyone that my management sent me to
9 provide it to. There were a lot of people that
10 needed information and I saw a lot of people.

11 Q. Are you familiar with a group called
12 Alternative Insurance Works?

13 A. Yes.

14 Q. Did you provide information to
15 Alternative Insurance Works in connection to the
16 World Trade Center leasing?

17 A. Yes, I did.

18 Q. What information did you provide --
19 strike that.

20 To whom did you provide such
21 information?

22 A. My primary point of contact, although
23 he was not the only point, but the primary would
24 be a gentleman by the name of Hickey. That was
25 his last name; his first name escapes me right

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2 now.

3 Q. John Hickey, does that sound correct?

4 A. Yes, that sounds correct.

5 Q. What kind of information did you
6 provide to Mr. Hickey in connection with the
7 World Trade Center lease?

8 A. All kinds of stuff. We spent quite a
9 bit of time together, went over HVAC, went over
10 refrigeration plant, went over steam equipment,
11 went over fire suppression. Basically all the
12 mechanical systems.

13 Q. Did you provide drawings to
14 Mr. Hickey that represented some of the systems
15 you just described?

16 A. Yes.

17 MS. GIFFIN: I'd like to introduce
18 the next exhibit which is marked AIW 480.

19 (Malopolski Exhibit 11, document
20 bearing Bates No. AIW 480, marked for
21 identification, as of this date.)

22 Q. Have you seen this document before,
23 sir?

24 A. Yes.

25 Q. What is it?

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2 A. It's a line diagram showing the
3 sprinkler systems in the 1 and 2 World Trade
4 Center towers.

5 Q. Do you know who created this
6 document?

7 A. No, I don't.

8 Q. Did you provide this document to
9 Mr. Hickey in connection with the World Trade
10 Center lease?

11 A. It's a good possibility that that's
12 true.

13 Q. What did --

14 A. I turned over a lot of documents to
15 Mr. Hickey at the direction of my management.

16 Q. Do you believe this to be an
17 accurate -- strike that.

18 The title of this document is "Riser
19 Diagram Sprinklers," correct?

20 MR. REYNOLDS: Towers A and B.

21 MS. GIFFIN: Thank you.

22 A. Correct.

23 Q. Do you believe this to be an accurate
24 representation of riser diagram sprinklers in
25 Towers A and B?

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2 A. Yes.

3 Q. Can you tell me, is this information
4 that the Port Authority kept in the normal
5 course of its business with regard to the World
6 Trade Center?

7 A. Yes.

8 MS. GIFFIN: I'd like to introduce as
9 the next exhibit a document marked AIW 481.

10 (Malopolski Exhibit 12, document
11 bearing Bates No. AIW 481, marked for
12 identification, as of this date.)

13 MR. REYNOLDS: I'm sorry, sir?

14 THE WITNESS: Would I be able to have
15 a copy of these for myself?

16 MS. GIFFIN: I think we'll have some
17 spares.

18 MR. REYNOLDS: We'll make you a set of
19 them.

20 MS. GIFFIN: Okay.

21 THE WITNESS: That's great, because,
22 you know, it's -- just to have.

23 MS. GIFFIN: Yes.

24 THE WITNESS: I haven't seen that in a
25 while.

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2 Q. Have you seen this document before,
3 sir?

4 A. Yes, I have.

5 Q. What is it?

6 A. This was a line diagram of the
7 sprinkler main on the B1 level of the World
8 Trade Center complex.

9 Q. Is this the document to which you
10 referred earlier when we were discussing
11 sectionalizing valves in sprinklers, and I
12 believe you referred to a line drawing in
13 connection with that conversation, do you
14 remember that?

15 A. Yes, but this is not it. This is
16 like it. There's another loop that is one level
17 above this that we spoke of, but it mirrors this
18 one very closely.

19 Q. Is this information you provided to
20 Mr. Hickey in connection with the World Trade
21 Center lease?

22 A. Probably.

23 Q. Where did you -- stepping back from
24 this particular document. I gather you
25 testified that you had provided drawings to

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2 Mr. Hickey in connection with the World Trade
3 Center lease, correct?

4 A. Correct.

5 Q. Where did you get those drawings?

6 A. There were various sources. These
7 last two exhibits that we looked at are part of
8 a series of manuals which described the
9 mechanical and electrical systems at the
10 buildings. It was a set of maybe 30 loose-leaf
11 orange books which contained drawings, pictures,
12 descriptions of various systems.

13 These came out of a book, probably
14 labeled "Sprinkler." So like I said, there were
15 about 30 books that these came out of. Also I
16 gave him base building drawings which we had on
17 file, and which I had additional copies made for
18 him. And those were drawings that were produced
19 when the building was constructed.

20 Q. And let me go back to the 30
21 loose-leaf orange books. Those were books
22 created by the Port Authority?

23 A. Yes.

24 Q. By employees of the Port Authority?

25 A. Yes.

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2 Q. And maintained by the Port Authority?

3 A. Correct.

4 Q. And the base building drawings you
5 had on file, do you know who created those?

6 A. Port Authority engineering. Those
7 were detailed blueprints; these are line
8 diagrams. But the base building drawings would
9 be to scale, actual -- probably as-built
10 drawings, which were much more detailed than
11 these pictures.

12 Q. The title of this document is
13 "Schematic Sprinkler Loop Main - B1 Level,"
14 correct?

15 A. Correct.

16 Q. Do you believe this is an accurate
17 representation of the sprinkler loop main on the
18 B1 level?

19 A. Yes.

20 Q. And you believe that because of your
21 familiarity with these systems, correct?

22 A. Correct.

23 Q. And the same is true of the document
24 Exhibit 11, correct, you're able to talk about
25 that because of your familiarity with those

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2 systems?

3 MR. REYNOLDS: Object to the form.

4 A. Not only my familiarity with the
5 systems, but my familiarity with the particular
6 drawing. You see, I would refer to these when I
7 needed to understand or find -- or work with the
8 systems. No one, well, at least not I, can
9 remember all this stuff. So these would be
10 reference documents that I would go to.

11 Q. And I see at least one reference on
12 Exhibit 12 here to sectional control valve?

13 A. Yes.

14 Q. I'm looking in particular about the
15 middle of the page where it says sectional
16 control valve number 2?

17 A. Right, exactly, yes.

18 Q. Is that the same thing as the
19 sectionalizing valves we discussed earlier?

20 A. Yes, it is.

21 Q. So I would be able to identify from
22 Exhibit 12 -- sorry.

23 Would I be able to identify from
24 Exhibit 12 all sectionalizing valves in the
25 sprinkler looping on the B1 level?

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2 A. You should be able to, yes.

3 MS. GIFFIN: I introduce Exhibit 13,
4 AIW 482.

5 (Malopolski Exhibit 13, document
6 bearing Bates No. AIW 482, marked for
7 identification, as of this date.)

8 Q. Have you seen this document before?

9 A. Yes, I have.

10 Q. What is it?

11 A. It's a line diagram of the sprinkler
12 loop on the concourse level.

13 Q. Do you know who created this
14 document?

15 A. I do not.

16 Q. Did you provide this document to John
17 Hickey in connection with the leasing of the
18 World Trade Center?

19 A. Probably.

20 Q. Do you know where you would have
21 gotten this document from in order to provide it
22 to Mr. Hickey?

23 A. It would have come out of the same
24 orange loose-leaf book as the previous two.

25 Q. Are you able to determine whether or

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2 not this is an accurate representation of the
3 sprinkler loop on the concourse level of the
4 World Trade Center prior to September 11th,
5 2001?

6 A. It's an accurate representation, but
7 it doesn't tell the full story. That's why we
8 produced another drawing, because the locations
9 that it calls out were no longer there at that
10 time. For instance, if you look in the upper
11 right-hand corner, you see Alexander's, right?
12 That department store was no longer there at
13 that time.

14 If you look at the Garden Path
15 Florist and Lynn's Hallmark, Border's Books and
16 Innovation Luggage, all those retail spaces were
17 different at the time of the map that we
18 upgraded.

19 So this is a rough approximation.
20 But the map that we created was a lot more
21 detailed.

22 Q. When did you create that map?

23 A. Maybe -- we were in the process of
24 doing it in the year before September 2001, so
25 it was already produced and in use prior to that

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2 incident.

3 Q. And did you provide that map to
4 Mr. Hickey?

5 A. I don't recall.

6 Q. Do you know if a copy of that map
7 still exists?

8 A. That's the copy of the map that I
9 gave to Mr. Stickelman.

10 Q. Thank you.

11 A. And it's like this, but it was much
12 more detailed; it's an as-built. This is a line
13 drawing.

14 Q. I understand. You've identified for
15 me several stores that were no longer at the
16 locations that are indicated on this diagram, is
17 that correct?

18 A. That's correct.

19 Q. Do you have any reason to believe
20 that the information about the sprinklers was
21 different?

22 A. The actual piping, no.

23 Q. Would any of the information about
24 interconnection as represented on this diagram
25 have been different?

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2 A. It should substantially be accurate,
3 yes.

4 MS. GIFFIN: Let me mark Exhibit 14,
5 AIW 0483.

6 (Malopolski Exhibit 14, document
7 bearing Bates No. AIW 483, marked for
8 identification, as of this date.)

9 Q. Have you seen this document before,
10 sir?

11 A. Yes.

12 Q. What is it?

13 A. It's a line diagram of the fire
14 standpipe system at the World Trade Center.

15 Q. Did you provide this diagram to
16 Mr. Hickey in connection with the World Trade
17 Center lease?

18 A. Probably.

19 Q. Where did you get it from?

20 A. The orange book, as the previous
21 three.

22 Q. As maintained by the Port Authority?

23 A. Yes.

24 Q. This diagram is titled "Tank and Pump
25 Systems, Fire Standpipe, World Trade Center,"

1 Malopolski-Confidential

2 correct?

3 A. Correct.

4 Q. Do you know if this is an accurate
5 representation of the fire standpipe -- sorry,
6 the tank and pump systems, fire standpipe at the
7 World Trade Center prior to September 11th,
8 2001?

9 MR. REYNOLDS: Object to the form.

10 A. Yes.

11 Q. And how are you able to determine
12 that this is an accurate representation?

13 A. From having seen the drawing before,
14 and having seen the systems before.

15 MS. GIFFIN: Exhibit 15 is AIW 0484.

16 (Malopolski Exhibit 15, document
17 bearing Bates No. AIW 484, marked for
18 identification, as of this date.)

19 Q. Have you seen this document before,
20 sir?

21 A. Yes, I have.

22 Q. What is it?

23 A. It's a line diagram of the fire
24 standpipe, concourse level, World Trade Center.

25 Q. And is this a drawing that you gave

1 Malopolski-Confidential

2 to John Hickey in connection with the World
3 Trade Center lease?

4 A. Probably.

5 Q. Is it an accurate representation of
6 the distribution loop fire standpipe on the
7 concourse level prior to September 11th?

8 A. Yes.

9 Q. How do you know that?

10 A. From my experience with the drawing
11 and the equipment.

12 Q. And where would you have gotten this
13 document from?

14 A. It would have been contained in the
15 orange manuals as the previous one, two, three,
16 four were.

17 MS. GIFFIN: Exhibit 16, AIW 0485.

18 (Malopolski Exhibit 16, document
19 bearing Bates No. AIW 485, marked for
20 identification, as of this date.)

21 Q. Have you seen this document before,
22 sir?

23 A. Yes, I have.

24 Q. What is it?

25 A. It's a line diagram of the fire

1 Malopolski-Confidential

2 standpipe on the B1 level of the World Trade
3 Center.

4 Q. Is this information you provided to
5 Mr. Hickey?

6 A. Probably.

7 Q. Is this information that you gathered
8 from the same Port Authority manuals we've been
9 discussing?

10 A. That's correct.

11 Q. Is this an accurate representation of
12 the distribution loop fire standpipe on level B1
13 prior to September 11th, 2001?

14 A. Yes.

15 MS. GIFFIN: Exhibit 17, AIW 486.

16 (Malopolski Exhibit 17, document
17 bearing Bates No. AIW 486, marked for
18 identification, as of this date.)

19 Q. Have you seen this document before?

20 A. Yes.

21 Q. What is it?

22 A. It's a riser diagram, fire standpipe,
23 level B6 to the 7th floor, Tower A.

24 Q. Is this information you provided to
25 Mr. Hickey?

1 Malopolski-Confidential

2 A. Probably.

3 Q. Is it information you gathered from
4 the Port Authority manuals we've been
5 discussing?

6 A. That's correct.

7 Q. Do you believe it to be accurate?

8 A. Yes, I do.

9 MS. GIFFIN: Exhibit 18 is AIW 487.

10 (Malopolski Exhibit 18, document
11 bearing Bates No. AIW 487, marked for
12 identification, as of this date.)

13 Q. Have you seen this document before?

14 A. Yes, I have.

15 Q. What is it?

16 A. It's a continuation of the previous
17 drawing. It takes it from the 7th floor to the
18 41st floor.

19 Q. Is that information you provided to
20 Mr. Hickey?

21 A. Probably.

22 Q. Is that information you would have
23 gathered from the Port Authority manuals
24 maintained by the Port Authority?

25 A. Yes.

1 Malopolski-Confidential

2 Q. Do you believe it to be accurate?

3 A. Yes.

4 Q. And that's based on your experience
5 with these drawings?

6 A. Correct.

7 MS. GIFFIN: Exhibit 19 is AIW 488.

8 (Malopolski Exhibit 19, document
9 bearing Bates No. AIW 488, marked for
10 identification, as of this date.)

11 Q. Have you seen this document before?

12 A. Yes.

13 Q. Did you also provide this to

14 Mr. Hickey?

15 A. Yes.

16 Q. From information that you gathered
17 from the Port Authority manuals?

18 A. Yes.

19 Q. Do you believe this to be accurate?

20 A. I do.

21 Q. Based on your experience with the
22 drawings on this system?

23 A. Yes.

24 MS. GIFFIN: Exhibit 20 is AIW 489.

25 (Malopolski Exhibit 20, document

1 Malopolski-Confidential

2 bearing Bates No. AIW 489, marked for
3 identification, as of this date.)

4 Q. Have you seen this document before?

5 A. Yes, I have.

6 Q. What is it?

7 A. It's the final one in the series that
8 we've been looking at. It takes the standpipe
9 from 75 to 110 in Tower A.

10 Q. Is this information you provided to
11 John Hickey?

12 A. Probably.

13 Q. It's information gathered from the
14 manual that's maintained by the Port Authority?

15 A. Yes.

16 Q. Do you believe it to be accurate?

17 A. I do.

18 Q. And that's based on your experience
19 with these drawings and with the system,
20 correct?

21 A. Correct.

22 MS. GIFFIN: Exhibit 21 is AIW 490.

23 (Malopolski Exhibit 21, document
24 bearing Bates No. AIW 490, marked for
25 identification, as of this date.)

1 Malopolski-Confidential

2 Q. Have you seen this document before?

3 A. Yes.

4 Q. What is it?

5 A. I think it's a copy of one that we
6 looked at earlier.

7 Q. I think you're right. I believe
8 Exhibit 15.

9 A. Yes, it's the same.

10 Q. Are they identical?

11 A. They appear to be, if I hold them up
12 and look through them.

13 Q. Fair enough.

14 A. They're titled the same. They look
15 to be the same.

16 Q. They appear to contain the same
17 information?

18 A. Yes.

19 Q. And they both appear to be documents
20 you gathered from the Port Authority maintained
21 manual?

22 MR. REYNOLDS: They appear to be the
23 very same document is what he's saying, not
24 two documents, not two separate documents
25 that he found.

1 Malopolski-Confidential

2 Q. That's fair. Do you believe --

3 A. I believe they are identical. If I
4 hold them up, I can't see any difference when I
5 shine the light through them.

6 Q. Good thing we're in a sunny room.

7 MS. GIFFIN: Exhibit 22 is AIW 491.

8 (Malopolski Exhibit 22, document
9 bearing Bates No. AIW 491, marked for
10 identification, as of this date.)

11 Q. Have you seen this document before?

12 A. Yes, I have.

13 Q. What is it, please?

14 A. This is the beginning of a series of
15 documents just like we went through in Tower A,
16 which shows the fire standpipe line diagram, B6
17 to the 7th floor.

18 Q. Is this information you provided to
19 Mr. Hickey?

20 A. Probably.

21 Q. Is this information you gathered from
22 the Port Authority manual as we've discussed?

23 A. Yes.

24 Q. Do you believe it to be accurate?

25 A. I do.

1 Malopolski-Confidential

2 Q. Based on your experience with --

3 A. Yes.

4 Q. Sorry, with the drawings and with the
5 system, correct?

6 A. Yes.

7 MR. REYNOLDS: Just for clarity, I
8 don't think you mentioned which tower this
9 document refers to.

10 Q. For clarity --

11 A. This is Tower B.

12 Q. Thank you, sir.

13 MS. GIFFIN: Exhibit 23 is AIW 493.

14 (Malopolski Exhibit 23, document
15 bearing Bates No. AIW 493, marked for
16 identification, as of this date.)

17 Q. Have you seen this document before,
18 sir?

19 A. Yes, I have.

20 Q. What is it?

21 A. It's a line diagram of the fire
22 standpipe, floors 41 through 75, Tower B.

23 Q. This is information you provided to
24 Mr. Hickey?

25 A. Probably.

1 Malopolski-Confidential

2 Q. Gathered from the Port Authority
3 manuals we've discussed?

4 A. Yes.

5 Q. And is the information accurate?

6 A. According to my knowledge of the
7 document and the systems, I believe it should
8 be.

9 MS. GIFFIN: Exhibit 24 is AIW 492.

10 (Malopolski Exhibit 24, document
11 bearing Bates No. AIW 492, marked for
12 identification, as of this date.)

13 Q. Have you seen this document before,
14 sir?

15 A. Yes, I have.

16 Q. What is it?

17 A. It's a riser diagram, fire standpipe,
18 floors 7 through 41, Tower B.

19 Q. Is this information you provided to
20 Mr. Hickey in connection with the World Trade
21 Center lease?

22 A. Yes, I believe it is.

23 Q. And was it gathered from the Port
24 Authority manuals you've described?

25 A. Correct.

1 Malopolski-Confidential

2 Q. Do you believe it to be accurate
3 based on your experience with the drawings and
4 with the system?

5 A. I do.

6 MS. GIFFIN: Exhibit 25 is AIW 493.

7 (Malopolski Exhibit 25, document
8 bearing Bates No. AIW 493, marked for
9 identification, as of this date.)

10 THE WITNESS: We got out of sequence
11 there, too. We went from B6 to 7 and then
12 we went from 41 to 75, and then went back to
13 7 to 41.

14 MS. GIFFIN: My apologies for having
15 gone out of sequence.

16 THE WITNESS: That's okay.

17 Q. Have you seen this document before,
18 sir?

19 A. Yes, I have.

20 Q. What is it?

21 A. It's a line diagram of the fire
22 standpipe risers, floors 75 through 110, Tower

23 B.

24 Q. Is this information you provided to
25 Mr. Hickey?

1 Malopolski-Confidential

2 A. Probably.

3 Q. And did you gather it from the Port
4 Authority manuals you've described?

5 A. Yes, I did.

6 Q. Do you believe the information in
7 here to be accurate?

8 A. I do.

9 Q. Based on your experience with the
10 drawings and the system?

11 A. Correct.

12 MS. GIFFIN: Exhibit 26 is AIW 495.

13 (Malopolski Exhibit 26, document
14 bearing Bates No. AIW 495, marked for
15 identification, as of this date.)

16 Q. Have you seen this document before,
17 sir?

18 A. Yes, I have.

19 Q. What is it?

20 A. It's a line diagram of the fire
21 standpipe risers for the subgrade at the World
22 Trade Center.

23 Q. And is this information you provided
24 to Mr. Hickey in connection with the World Trade
25 Center lease?

1 Malopolski-Confidential

2 A. Probably.

3 Q. Is this information you gathered from
4 the Port Authority manual you discussed?

5 A. Yes.

6 Q. Do you believe the information in
7 there to be accurate?

8 A. I do.

9 Q. Based on your experience with the
10 systems and with the drawings?

11 A. Correct.

12 MS. GIFFIN: Exhibit 27 is AIW 496.

13 (Malopolski Exhibit 27, document
14 bearing Bates No. AIW 496, marked for
15 identification, as of this date.)

16 Q. Have you seen this document before,
17 sir?

18 A. Yes I have.

19 Q. What is it?

20 A. It's a line diagram of the fire
21 standpipe risers in the subgrades at the World
22 Trade Center.

23 Q. Is this information you provided to
24 Mr. Hickey in connection with the World Trade
25 Center lease?

1 Malopolski-Confidential

2 A. It probably is.

3 Q. Is this information you gathered from
4 the Port Authority manuals we've discussed?

5 A. Yes.

6 Q. And do you believe it to be accurate?

7 A. I do.

8 Q. Based on your experience with the
9 drawings and with the system, correct?

10 A. Yes.

11 MS. GIFFIN: Exhibit 28, AIW 498.

12 (Malopolski Exhibit 28, document
13 bearing Bates No. AIW 498, marked for
14 identification, as of this date.)

15 MS. GIFFIN: We're also going to do
16 these slightly out of order. My apologies.

17 THE WITNESS: Of course, this is
18 assuming that no one has altered these
19 drawings.

20 MS. GIFFIN: I understand. You don't
21 have any reason to believe anyone has
22 altered the drawings?

23 THE WITNESS: No. They appear to be
24 the drawings that came from the orange
25 books, but unless I sat down and studied

1 Malopolski-Confidential

2 them -- they don't appear to be altered.

3 And I'm assuming they came from Mr. Hickey?

4 MS. GIFFIN: I will represent to
5 counsel that they have been -- these are
6 drawings pulled from the Alternative
7 Insurance Works report, for purposes of
8 reference.

9 Q. Have you seen that document before,
10 sir?

11 A. Yes, I have.

12 Q. What is it?

13 A. It's a line diagram of the standpipe
14 hose rack locations on the concourse level of
15 the World Trade Center.

16 Q. Is this information you provided to
17 Mr. Hickey?

18 A. Probably.

19 Q. Is this information you gathered from
20 the Port Authority manuals?

21 A. Yes.

22 Q. Do you believe it to be accurate
23 based on your experience?

24 A. I do.

25 MS. GIFFIN: Exhibit 29 which is AIW

1 Malopolski-Confidential

2 497, going back a page. My apologies.

3 (Malopolski Exhibit 29, document
4 bearing Bates No. AIW 497, marked for
5 identification, as of this date.)

6 Q. Have you seen this document before,
7 sir?

8 A. Yes, I have.

9 Q. What is it?

10 A. It's a line diagram of the fire
11 standpipe risers in the subgrade of the World
12 Trade Center.

13 Q. Is this information you provided to
14 Mr. Hickey?

15 A. Probably.

16 Q. Is this information you gathered from
17 the Port Authority manuals you've described?

18 A. Yes.

19 Q. And do you believe it to be accurate
20 based on your experience?

21 A. I do.

22 MS. GIFFIN: Exhibit 30 is AIW 499.

23 (Malopolski Exhibit 30, document
24 bearing Bates No. AIW 499, marked for
25 identification, as of this date.)

1 Malopolski-Confidential

2 MS. GIFFIN: We went 497, 498, 499.

3 MR. REYNOLDS: Fine. This is going to
4 have to be the last exhibit because it's now
5 five o'clock.

6 MS. GIFFIN: Mr. Reynolds, I have
7 three more pages after this that I would
8 like to get through.

9 MR. REYNOLDS: Can we go through three
10 more exhibits? Is it going to be the same
11 types of questions?

12 MS. GIFFIN: Same types of questions.

13 THE WITNESS: We're going pretty fast.
14 I think we can do that.

15 MS. GIFFIN: Thank you.

16 Q. Have you seen Exhibit 30 before?

17 A. Yes, I have.

18 Q. What is it?

19 A. It's a line diagram of the standpipe
20 and hose rack locations on the B1 level at the
21 World Trade Center.

22 Q. Is this information you've provided
23 to Mr. Hickey?

24 A. It probably is.

25 Q. Did you get this information from the

1 Malopolski-Confidential

2 Port Authority manuals we've discussed?

3 A. Yes.

4 Q. Do you believe it to be accurate
5 based on your experience?

6 A. Yes.

7 MS. GIFFIN: Exhibit 31, AIW 500.

8 (Malopolski Exhibit 31, document
9 bearing Bates No. AIW 500, marked for
10 identification, as of this date.)

11 Q. Have you seen this document before,
12 sir?

13 A. Yes.

14 Q. What is it?

15 A. It's a line diagram of the fire
16 standpipe and hose rack locations on the B3
17 level of the World Trade Center.

18 Q. Is this information you provided to
19 John Hickey?

20 A. Probably.

21 Q. Is this information you gathered from
22 the Port Authority manuals you described?

23 A. Yes.

24 Q. Do you believe this information to be
25 accurate based on your experience?

1 Malopolski-Confidential

2 A. I do.

3 MS. GIFFIN: Exhibit 32 is AIW 501.

4 (Malopolski Exhibit 32, document
5 bearing Bates No. AIW 501, marked for
6 identification, as of this date.)

7 (Discussion off the record.)

8 Q. Have you seen this document before,
9 sir?

10 A. Yes.

11 Q. What is it?

12 A. A line diagram of the fire standpipe
13 and hose rack locations, B5 level, World Trade
14 Center.

15 Q. Is this information you provided to
16 Mr. Hickey in connection with the World Trade
17 Center lease?

18 A. Probably.

19 Q. Is this information you gathered from
20 the manuals maintained by Port Authority as
21 you've described?

22 A. Yes.

23 Q. Do you believe the information to be
24 accurate based on your experience?

25 A. Yes.

1 Malopolski-Confidential

2 MS. GIFFIN: Exhibit 33, AIW 502.

3 (Malopolski Exhibit 33, document
4 bearing Bates No. AIW 502, marked for
5 identification, as of this date.)

6 Q. Have you seen this document before,
7 sir?

8 A. Yes.

9 Q. What is it?

10 A. It is a line diagram of the fire
11 standpipe and hose rack locations, B6 level,
12 World Trade Center.

13 Q. Is this information you provided to
14 Mr. Hickey in connection with the World Trade
15 Center lease?

16 A. Most likely.

17 Q. Is this information you gathered from
18 the manuals maintained by the Port Authority as
19 we've discussed?

20 A. Yes.

21 Q. Do you believe the information
22 contained here to be accurate?

23 A. Yes.

24 Q. Based on your experience?

25 A. Correct.

1 Malopolski-Confidential

2 MS. GIFFIN: Mr. Malopolski, I
3 understand that you have to leave now due to
4 family obligations.

5 And Mr. Reynolds, I also understand
6 what you put on the record regarding
7 discussions earlier today, but again for the
8 record, we do have more questions for this
9 witness. And you and I can discuss that off
10 the record, but we do need to ask some more
11 questions of this witness.

12 Mr. Malopolski, thank you very much
13 for your time today.

14 THE VIDEOGRAPHER: The time is 5:07
15 p.m. and this videotaped deposition will be
16 adjourned.

17 (Time noted: 5:07 p.m.)

18

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DENNIS MALOPOLSKI

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22 Subscribed and sworn to before me
23 this ____ day of _____, 2002.

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C E R T I F I C A T E

STATE OF NEW YORK)

: ss.

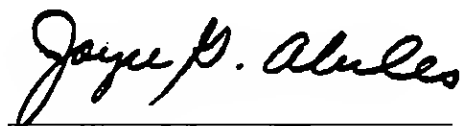
COUNTY OF NEW YORK)

I, JOYCE G. ABELES, a Notary Public
within and for the State of New York, do
hereby certify:

That DENNIS MALOPOLSKI, the witness
whose deposition is hereinbefore set forth,
was duly sworn by me and that such
deposition is a true record of the testimony
given by the witness.

I further certify that I am not
related to any of the parties to this action
by blood or marriage, and that I am in no
way interested in the outcome of this
matter.

IN WITNESS WHEREOF, I have hereunto
set my hand this 2nd day of October, 2002.



JOYCE G. ABELES

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-----I N D E X-----

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WITNESS EXAMINATION BY PAGE

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DENNIS MALOPOLSKI MS. GIFFIN 06

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-----EXHIBITS-----

10

MALOPOLSKI EXHIBITS FOR ID.

11

Malopolski Exhibit 1, document bearing Bates

12

Nos. PORT/SRI 151727 through 151730, marked for

13

identification..... 42:10

14

Malopolski Exhibit 2, document bearing Bates

15

Nos. PORT/SRI 166945 and 946, marked for

16

identification..... 49:18

17

Malopolski Exhibit 3, document bearing Bates

18

Nos. PORT/SRI 166954 and 955, marked for

19

identification..... 49:23

20

Malopolski Exhibit 4, document bearing Bates

21

Nos. PORT/SRI 159454 and 455, marked for

22

identification..... 55:18

23

Malopolski Exhibit 5, document bearing Bates

24

Nos. PORT/SRI 076953 and 954, marked for

25

identification..... 70:9

1
2 Malopolski Exhibit 6, document bearing Bates
3 Nos. PORT/SRI 152670 and 671, marked for
4 identification..... 79:16
5 Malopolski Exhibit 7, document bearing Bates
6 Nos. PORT/SRI 162355 and 356, marked for
7 identification..... 83:11
8 Malopolski Exhibit 8, document bearing Bates No.
9 PORT/SRI 143655, marked for identification.....
10 92:11
11 Malopolski Exhibit 9, document bearing Bates No.
12 PORT/SRI 166507, marked for identification.....
13 93:25
14 Malopolski Exhibit 10, document bearing Bates
15 Nos. PORT/SRI 166104 through 111, marked for
16 identification..... 101:3
17 Malopolski Exhibit 11, document bearing Bates
18 No. AIW 480, marked for identification.. 112:19
19 Malopolski Exhibit 12, document bearing Bates
20 No. AIW 481, marked for identification.. 114:10
21 Malopolski Exhibit 13, document bearing Bates
22 No. AIW 482, marked for identification... 119:5
23 Malopolski Exhibit 14, document bearing Bates
24 No. AIW 483, marked for identification... 122:6
25

1
2 Malopolski Exhibit 15, document bearing Bates
3 No. AIW 484, marked for identification.. 123:16
4 Malopolski Exhibit 16, document bearing Bates
5 No. AIW 485, marked for identification.. 124:18
6 Malopolski Exhibit 17, document bearing Bates
7 No. AIW 486, marked for identification.. 125:16
8 Malopolski Exhibit 18, document bearing Bates
9 No. AIW 487, marked for identification.. 126:10
10 Malopolski Exhibit 19, document bearing Bates
11 No. AIW 488, marked for identification... 127:8
12 Malopolski Exhibit 20, document bearing Bates
13 No. AIW 489, marked for identification.. 127:25
14 Malopolski Exhibit 21, document bearing Bates
15 No. AIW 490, marked for identification.. 128:23
16 Malopolski Exhibit 22, document bearing Bates
17 No. AIW 491, marked for identification... 130:8
18 Malopolski Exhibit 23, document bearing Bates
19 No. AIW 493, marked for identification.. 131:14
20 Malopolski Exhibit 24, document bearing Bates
21 No. AIW 492, marked for identification.. 132:10
22 Malopolski Exhibit 25, document bearing Bates
23 No. AIW 493, marked for identification... 133:7
24 Malopolski Exhibit 26, document bearing Bates
25 No. AIW 495, marked for identification.. 134:13

1
2 Malopolski Exhibit 27, document bearing Bates
3 No. AIW 496, marked for identification.. 135:13
4 Malopolski Exhibit 28, document bearing Bates
5 No. AIW 498, marked for identification.. 136:12
6 Malopolski Exhibit 29, document bearing Bates
7 No. AIW 497, marked for identification... 138:3
8 Malopolski Exhibit 30, document bearing Bates
9 No. AIW 499, marked for identification.. 138:23
10 Malopolski Exhibit 31, document bearing Bates
11 No. AIW 500, marked for identification... 140:8
12 Malopolski Exhibit 32, document bearing Bates
13 No. AIW 501, marked for identification... 141:4
14 Malopolski Exhibit 33, document bearing Bates
15 No. AIW 502, marked for identification... 142:3

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*** ERRATA SHEET ***

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NAME OF CASE: SRI vs. WTC

DATE OF DEPOSITION: September 30, 2002

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NAME OF WITNESS: DENNIS MALOPOLSKI

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PAGE	LINE	FROM	TO
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DENNIS MALOPOLSKI

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Subscribed and sworn to before me

this day of , 2002.

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(Notary Public)

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My Commission Expires:

WORD INDEX

A				
Abeles 1:24 2:10 6:10 144:7,25	114:9,11 119:4,6 122:5,7 123:15,17 124:17,19 125:15 125:17 126:9,11 127:7,9,24 128:2 128:22,24 130:7,9 131:13,15 132:9 132:11 133:6,8 134:12,14 135:12 135:14 136:11,13 137:25 138:4,22 138:24 140:7,9 141:3,5 142:2,4 146:18,20,22,24 147:3,5,7,9,11,13 147:15,17,19,21 147:23,25 148:3,5 148:7,9,11,13,15	137:2 appears 56:12 application 104:6 apprentice 14:13 apprenticeship 13:21 14:10,18 15:2 16:7 18:16 25:22 approximately 18:20 19:22 21:24 23:4 24:15 25:3 25:12 26:10,12 27:14 28:7 29:9 41:9 60:20 62:13 65:3 66:17 67:4 approximation 120:19 Ardizzone 47:3 area 10:18 27:24 36:12,17,18 37:10 58:21 59:2 63:17 66:4 67:14 68:25 69:8 74:11 77:25 106:2 areas 36:9 45:6 63:21 66:18 67:19 68:16 69:5,11 75:16 81:17 108:4 Arps 2:8 4:10 artificially 72:20 aside 109:10 110:13 110:17 asked 58:16 67:8 76:7 91:7 110:25 asking 7:15 51:11 68:21 aspects 34:22 assign 87:24 assigned 32:19 64:13,25 89:5 assistant 70:20 Associates 4:23 association 6:10 assume 8:4 53:15 59:6 88:6 98:8 assumes 57:24,25 assuming 29:16 136:18 137:3 as-built 117:9 121:12 attached 84:9 attend 12:17 13:22 13:24 18:18 21:12 21:24 attended 12:15 18:16 21:22 23:6 23:9 attending 16:6 18:21 attention 43:10	50:6 53:6 102:4 attorneys 3:5,11,17 4:11,17 5:3 author 94:17 Authority 1:10 4:4 4:11 23:2 26:24 27:5,14 31:18 32:16,20 33:11 39:20 42:3 44:11 44:16 47:6,18 54:24,25 61:3 65:21,25 70:21 100:2,8,22 114:4 116:22,24 117:2,6 122:22 125:8 126:4,23,24 127:17 128:14 129:20 130:22 132:2,24 134:4 135:4 136:4 137:20 138:17 140:2,22 141:20 142:18 Authority's 30:25 40:18 authorized 5:12 automatic 108:24 109:8,11 110:6,13 110:17 automatically 109:7 110:10 availability 95:15 Avenue 3:6,18 4:6 aviation 70:21 await 52:15 aware 68:4 71:9 100:7	133:3 134:9 135:9 136:8 137:23 138:20 140:5,25 141:24 142:24 basically 34:20 58:5 112:11 basis 58:23 Bates 42:8,11 49:3 49:16,19,24 55:16 55:19 70:10 79:17 83:12 92:12 94:2 101:4 112:20 114:11 119:6 122:7 123:17 124:19 125:17 126:11 127:9 128:2,24 130:9 131:15 132:11 133:8 134:14 135:14 136:13 138:4,24 140:9 141:5 142:4 145:11,14,17,20 145:23 146:2,5,8 146:11,14,17,19 146:21,23 147:2,4 147:6,8,10,12,14 147:16,18,20,22 147:24 148:2,4,6 148:8,10,12,14 Battery 37:24 bearing 42:11 49:19 49:24 55:19 70:10 79:17 83:12 92:12 94:2 101:4 112:20 114:11 119:6 122:7 123:17 124:19 125:17 126:11 127:9 128:2,24 130:9 131:15 132:11 133:8 134:14 135:14 136:13 138:4,24 140:9 141:5 142:4 145:11,14,17,20 145:23 146:2,5,8 146:11,14,17,19 146:21,23 147:2,4 147:6,8,10,12,14 147:16,18,20,22 147:24 148:2,4,6 148:8,10,12,14 beginning 30:9 130:14 begins 85:15 103:4 behalf 30:24 believe 9:10 16:22 17:3 19:21 60:22 84:7 85:8 92:18
Aheles 1:24 2:10 6:10 144:7,25				
ability 7:22 88:13				
able 54:14 68:2 84:20 85:20 88:13 90:23 97:3 98:6 98:10 110:20 114:14 117:24 118:21,23 119:2 119:25 123:11				
access 33:3				
accessible 106:7 107:4				
accommodate 91:9				
account 37:6				
accurate 87:3 113:17,23 117:16 120:2,6 122:2 123:4,12 124:5 125:11 126:7 127:2,19 128:16 130:24 132:5 133:2 134:7 135:7 136:6 137:22 138:19 140:4,25 141:24 142:22				
accurately 8:17				
action 6:25 144:16				
actions 16:17				
activate 109:13 110:15				
activated 108:9,22 109:5				
active 97:5,8,12				
actual 50:13 62:6 117:9 121:22				
additional 22:16 116:17				
addressed 56:3				
adjourned 143:16				
administer 5:13				
administered 17:24				
affect 61:15 62:2 63:8 79:8,11 80:19 81:9				
afternoon 6:20 30:11 41:17 61:13 91:8				
ago 9:7 86:11,18 93:8				
agree 71:25 91:14				
AGREED 5:2,6,10				
ahead 30:15 34:18 72:16 110:23				
air 28:17				
Airport 10:2,23,25 11:3 27:20 28:6 28:14,24 29:12				
AIW 112:18,20				

92:25 93:9 99:23 108:12 113:16,23 115:12 117:16,20 121:19 126:7 127:2,19 128:16 129:7 130:2,3,24 132:7,22 133:2 134:6 135:6 136:6 136:21 137:22 138:19 140:4,24 141:23 142:21 belt 90:5 best 13:15 75:24 better 8:3 26:8 27:6 62:24 beyond 74:23 biology 12:16 21:17 24:8 bit 10:15 14:20 15:10 18:5 42:24 76:24 112:9 black 17:10,22 19:12 20:9 BLATNIK 3:14 33:23 38:6 66:9 100:5 block 86:16 blood 144:17 blowers 14:7 blue 13:4 17:10 19:12,25 20:12,15 21:9,19 blueprints 117:7 boiler 18:8 bombing 30:2,17 110:22 book 116:13 119:24 122:20 books 116:11,15,21 116:21 120:15 136:25 Border's 120:15 bottom 80:10,14 box 83:5 88:7 break 30:11,15,22 46:19 49:6 85:10 85:19 breakdowns 88:22 breaker 83:5 breakers 88:8,24 briefly 12:13 37:17 96:2 104:21 107:18 bring 36:16 90:9 brings 28:8 broad 34:22,25 broadly 14:2 22:15 23:23 24:2 Broadway 9:19 10:10,23 11:4	broke 63:17 64:19 66:4 68:25 79:11 broken 88:10 brush 34:23,25 build 104:7 building 9:13 37:21 38:2,4 52:23 58:4 59:14,20 60:5,14 62:21,23 64:19 70:5 82:3 95:17 103:15 116:16,19 117:4,8 buildings 33:15 34:9 63:18 66:4 69:2,17 71:21 72:6,7 76:8,9 77:9 86:13 92:6 116:10 built 60:12 72:19 102:17,19 104:10 104:16,17,18 105:22 buried 107:7 business 1:4 40:15 41:2,13 58:11 62:17,19 66:16 88:14 96:8 114:5 B1 73:9,15 77:16 95:9 108:20 109:21 115:7 117:13,18 118:25 125:2,12 139:20 B2 75:21 77:16 B3 140:16 B5 141:13 B6 77:2 78:12 89:7 125:23 130:16 133:11 142:11 <hr/> C C 3:2,8 4:2 28:4 38:24,24 144:2,2 cabinet 10:11 cafeteria 82:25,25 calendar 110:24 call 108:20 called 6:14 25:7 77:6 97:5 111:11 calls 92:25 120:9 Camden 24:4 CAMPISI 3:20 capacity 13:3 17:13 19:18 38:14 39:11 capital 41:24 care 58:6,9 Carl 39:9 42:6 Carolyn 91:7 cars 92:3 93:2 Carteret 25:8 carve 72:20 case 12:3 149:4	cases 108:10,11 109:17,18 Castaldo 65:20 caveat 30:13 ceiling 105:13 107:7 center 1:8,13,13,14 1:14 6:5 10:8 12:10 29:25 33:21 35:5,15,20 38:5 40:13,19 41:14,25 43:5,8 45:11,16 45:21 46:11,21 47:9,21 51:6 52:10,15 53:16 55:4 56:19 59:15 60:6,22 61:4,6,14 62:20 71:5,11 76:19 77:10,18 78:11 79:4 80:8 81:10 82:4,14 85:4 86:2 87:13 88:4,12 92:6 93:12,19 95:6,10 95:22 96:3,17 97:17 98:3,21 99:3,7,10,18 100:3,10 101:14 102:14,18,20,22 104:3,12,23 105:16 106:2,16 107:23 108:7 111:2,4,16 112:7 113:4,10 114:6 115:8,21 116:3 119:18 120:4 122:14,17,25 123:7,24 124:3 125:3 132:21 134:22,25 135:22 135:25 137:15 138:12 139:21 140:17 141:14,17 142:12,15 Center's 103:23 central 44:25 63:16 68:24 69:19 72:19 certain 19:19 86:11 86:12 104:8 certificate 12:22 13:10,20 16:9,21 20:8,10 21:18 CERTIFICATES 1:17 certified 12:25 16:23,25 17:5 18:10 certify 18:9 144:9 144:15 chance 42:14 50:3 55:22 70:12 94:4	chandeliers 87:7,16 87:19,22 88:3,18 change 29:17 30:4 35:18 40:6 41:11 62:7,16,25 63:4 64:11 65:13 66:18 66:20,22 67:9 changed 24:23 26:25 38:17 39:25 40:3,9,14,16,21 41:2,19 52:3 60:23,25 62:20 63:11,13 64:9,12 66:23 67:20 changing 65:17 Chapter 50:14 characterization 60:10 61:18 64:22 72:2,5 74:6 83:23 87:3,5,15 89:19 89:25 91:20 93:15 96:6 104:14 characterized 74:3 charge 27:24 47:8 Charles 98:19 chart 42:25 chemical 12:23 13:11 14:19 Chevron 14:15 18:15 21:2 25:19 26:7,9 27:11 chief 31:24 35:11 36:11 39:15,22 41:3 47:7,19 choose 103:5 Christina 4:20 6:22 circuit 83:5 88:8,24 City 9:20 10:8 37:24 62:18 98:16 clarity 131:7,10 class 17:7 classes 13:22,24,25 16:6,12,13,14 21:12 classify 54:20 cleaning 58:12 clear 52:4 clear-cut 46:19 close 17:2 97:6 closed 24:24 closely 115:18 closet 80:20 coated 99:14,17,23 code 58:10 college 12:15,17,18 23:21 24:3 come 23:7 41:16 95:20 108:25 109:11 110:21 119:23	coming 15:6 command 52:15 96:14 commander 52:16 COMMERCIAL 1:10,16 Commission 149:25 common 54:15,21 80:8 communicate 8:3 69:23 company 3:17 14:16 25:7 complete 16:19 44:19,22 91:2 106:22 107:6 completed 12:21 completely 8:13,14 11:3 completes 85:12 complex 33:21 35:21 38:5 54:23 55:10 57:10,16 60:6 63:21 66:7 67:23 72:18,21 76:19 77:8 79:4 81:10 82:14 85:5 86:2 88:4 89:15 92:6 93:12,20 94:22 95:2,4,10 95:15,22 96:14,17 100:10 104:19 115:8 compliance 18:8 compressors 14:7 computation 19:5 computer 11:6,9,10 11:14 22:22 36:6 Con 84:18 concentrate 63:20 69:4 concentration 36:10 58:15 concentrations 36:2 concerned 10:18 concourse 77:21 78:10 98:2 108:18 108:18 119:12 120:3 123:24 124:7 137:14 Cond 53:18 condition 96:13 conditioning 28:17 condolences 30:24 conduct 62:19 conducted 22:25 conducting 66:16 Confidential 1:20 2:6 confines 69:20
---	--	--	---	---

<p> confusing 53:23 conjoined 73:2 connection 28:10 31:9 55:2 57:21 76:16 93:17 111:3 111:15 112:6 113:9 115:13,20 116:2 119:17 122:16 124:2 132:20 134:24 135:24 141:16 142:14 Connolly 4:16 6:23 consecutive 17:13 consensus 86:10 considered 60:5 constraint 21:11 constructed 72:19 116:19 construction 26:21 26:22 43:5 64:14 65:8 66:5 consultant 98:11,13 consumption 84:20 contact 98:10 111:22 contain 129:16 contained 91:24 116:11 124:14 142:22 context 75:13 continuation 126:16 continue 22:12 65:21 66:7 continuing 22:5 continuously 21:22 contract 33:16 34:10 87:24 contracted 33:4 contracting 31:15 contractor 31:12 32:4 contractors 54:25 control 15:23 96:15 106:16 108:24 109:9,11 110:11 118:12,16 controlled 83:6 controls 14:8 15:22 22:22 Cont'd 4:2 conversation 9:2,4 115:13 convey 91:23 103:12 cooled 37:22 cooling 36:6 37:22 coordinated 58:10 69:16 </p>	<p> copies 116:17 copy 79:21 84:5 92:16 98:6,9,12 114:15 121:6,8 129:5 corner 120:11 CORPORATION 1:11,12 correct 9:5 12:12 13:13 14:11,12 16:3 17:18,25 18:2 19:14 20:3,4 20:14 22:13 25:23 28:18,19,25 29:13 29:16,19,24 32:13 33:22 35:8 36:14 37:12,13 38:5,11 38:12 39:18 44:18 44:22 45:2,22 46:25 49:13 56:14 57:11,17,18 60:6 60:8,23,25 61:16 64:10 65:11,25 69:5,6,8,9 73:9,23 74:4,20,21 75:3 75:11,25 76:4,12 76:13,19,20 78:4 80:4 81:10,12,17 81:18 82:19 84:6 85:7,22,23 87:13 89:17,20,23 90:17 90:18 92:7,8 93:13,16 100:23 101:17 102:2,20 103:24 105:4,7,17 106:24 107:13,14 112:3,4 113:19,22 116:3,4 117:3,14 117:15,21,22,24 121:17,18 123:2,3 125:10 126:6 127:6 128:20,21 131:5 132:25 134:11 135:11 136:9 142:25 correctly 12:8 13:12 41:7 45:12 73:19 74:19 80:25 94:15 106:21 corridor 106:9 corridors 82:2,4 costs 33:6 75:15 counsel 7:16 30:12 137:5 counterclaim 6:25 County 18:19 144:5 course 18:23,24 22:7,10 33:2,5 57:16 69:14,24 95:19 101:16 </p>	<p> 114:5 136:17 courses 18:17 court 1:2 5:15 6:9 6:12 8:6,16 cover 90:20,21 create 120:22 created 97:25 113:5 116:22 117:5 119:13 120:20 cross 82:2,5 currently 9:18,19 Customs 74:13 77:24 cut 84:24 97:10 CV 1:7 </p> <hr/> <p style="text-align: center;">D</p> <hr/> <p> D 6:14 145:2 daily 14:23 56:16 56:17,23 57:5,20 58:9 59:10 damaged 33:5 date 42:13 49:20,25 55:20 70:11 79:18 83:13 84:11 92:13 94:3 101:6 112:21 114:12 119:7 122:8 123:18 124:20 125:18 126:12 127:10 128:3,25 130:10 131:16 132:12 133:9 134:15 135:15 136:14 138:5,25 140:10 141:6 142:5 149:4 dates 68:2 101:21 datum 77:13,14 78:9 day 14:25 30:10 46:4 55:12,13 57:7 143:23 144:21 149:23 days 9:7 101:16 day-to-day 66:14 Dean 101:13 decide 27:4 73:2 decided 61:4 86:7 86:10,20 89:14 decision 40:19 61:14 86:9 87:18 100:16 decisions 100:8 defendant 3:11 6:25 Defendants 1:18 defined 82:2 degrec 12:16 demand 84:24 104:7 demands 90:15 </p>	<p> Dennis 1:20 2:7 6:4 7:4 85:16 143:20 144:10 145:4 149:5,22 department 12:23 13:11 30:6 31:22 32:11 44:17,20 54:9 60:25 61:20 61:23 66:2,3,7 68:23 70:24 102:11,12 120:12 departments 54:24 departure 90:12 depending 82:5,8 depends 22:2 deposed 7:7 deposition 1:20 2:6 5:11 6:3,5,11 8:19 9:15 30:10 85:16 91:2,6 143:15 144:11,13 149:4 DEREK 4:23 describe 14:2,20 15:4,10 16:16 23:19 37:17 40:2 40:8 62:11 78:7 81:3,5 96:2,23 99:12 described 16:6 21:15 23:17 34:4 38:10 40:10 48:21 72:6 78:25 85:19 110:18 112:15 116:8 132:24 134:4 138:17 140:22 141:21 description 22:23 descriptions 116:12 design 88:11 designed 73:12,15 79:3 detail 23:24 detailed 23:22 34:21 117:7,10 120:21 121:12 detectors 96:11 determine 32:18 34:13,25 40:20 44:14 48:15 54:14 69:10 119:25 123:11 DEWEY 3:16 diagram 113:2,19 113:24 115:6 119:11 121:16,24 122:13,15,24 123:23 124:25 125:22 130:16 131:21 132:17 133:21 134:20 </p>	<p> 135:20 137:13 138:10 139:19 140:15 141:12 142:10 diagrams 117:8 diary 68:2 died 30:7 difference 37:18 130:4 different 20:5,11 34:22 35:25 37:14 39:20 54:23 64:16 69:17 70:3,5 71:19 77:22 78:9 88:9 97:3 102:22 108:4 120:17 121:21,25 difficult 30:19 75:20 103:2 105:24 107:8 difficulty 75:15 direct 31:11 32:4 33:9 43:10 direction 103:5 113:15 directly 84:4 director 70:20,24 disagree 76:5 discern 48:23 discuss 110:21 143:9 discussed 26:4 63:3 81:4 93:8 118:19 130:22 132:3 135:4 136:4 140:2 142:19 discusses 75:2 discussing 30:17 60:20 80:2 91:18 115:10 125:9 126:5 discussion 8:23 18:3 28:20 104:22 141:7 discussions 143:7 dispatch 69:19 distinct 63:18 66:4 69:2,17 70:5 72:23 74:16 87:17 distribute 96:10 distributing 95:12 distribution 124:6 125:12 DISTRICT 1:2,3 divided 63:15,19 68:23 69:3 81:25 division 4:5 44:10 44:15 100:21 dock 78:20 95:10 document 11:11 </p>
--	--	---	---	---

42:8,10,17,20 43:3 49:3,18,23 50:7,9,13 53:7,9 53:13,24 55:16,18 55:22,24 56:6,8 56:11 57:3,14 70:8,9,15 74:6 79:16,19 80:11 83:11,18,21 87:5 90:8 91:17,18 92:10,11,14 93:25 94:5,11,17 101:3 101:7,11 102:25 112:19,22 113:6,8 113:18 114:9,10 115:2,9,24 117:12 117:23 119:5,8,14 119:16,21 122:6,9 123:16,19 124:13 124:18,21 125:16 125:19 126:10,13 127:8,11,25 128:4 128:23 129:2,23 130:8,11 131:9,14 131:17 132:7,10 132:13 133:7,17 134:13,16 135:13 135:16 136:12 137:9 138:3,6,23 140:8,11 141:4,8 142:3,6 145:11,14 145:17,20,23 146:2,5,8,11,14 146:17,19,21,23 147:2,4,6,8,10,12 147:14,16,18,20 147:22,24 148:2,4 148:6,8,10,12,14 documents 9:14 12:3,10 79:22 113:14 118:10 129:19,24,24 130:15 doing 67:13 87:22 87:23 109:8 120:24 domestic 37:7,15 110:2,3,7 draw 85:2 drawing 115:12 118:6 120:8 121:13 123:13,25 124:10 126:17 drawings 33:3 112:13 115:25 116:5,11,16,18 117:4,8,10 127:5 127:22 128:19 131:4 133:3 134:10 135:10	136:9,19,22,24 137:6 drive 33:6 drop 108:25 109:12 110:9 dropped 109:6 due 143:3 duly 6:15 144:12 duties 31:11 32:3 34:20,22 39:24 40:3,9 duty 57:6 D.C 4:19 E E 3:2,2 4:2,2 6:14 28:4,4 68:12,12 144:2,2 145:2 earlier 6:21 57:15 60:20 61:13 76:7 115:10 118:19 129:6 143:7 early 90:17 earned 17:12 easily 106:7 east 82:5 easy 30:20 Edison 84:18 education 12:20 21:14,20 22:5,11 22:13 23:15 educational 12:14 EDWARD 3:14 effect 5:14 91:18 eight 9:23 97:10 eight-hour 15:7 electric 80:20 84:22 85:22 electrical 45:10,15 46:10 47:20 58:6 59:25 80:3,7 81:6 82:18 84:17 86:13 86:19 88:17 116:9 electrician 87:25 electricity 86:23 elevation 77:11,12 78:5 108:14 elevations 78:17 elevator 58:10 91:25 92:3 93:2 elevators 80:22 91:18,19 email 11:17,19 56:4 56:13 71:13 79:25 80:7 83:25 84:3,8 84:9 85:20 92:19 92:23 93:4 emails 83:21 84:15 101:15,18,19 emergency 73:11	73:14,16 employee 42:2 employees 116:24 endeavor 58:21 59:2 engineer 13:2 16:24 17:5 27:16,18 28:5,11 29:17 31:23 38:15 engineering 32:2 98:15,18 100:19 100:20,21 117:6 engineers 29:5 entire 19:20 31:22 51:19 61:20 63:16 68:24 71:5 84:25 102:19 104:19 entities 23:2 entry 58:16 77:25 equipment 14:5,6 17:8,14 18:10 19:9 22:18 27:20 28:12,13 33:2,5 35:20,24 36:13 38:2 59:19,22 77:6 79:2 80:22 84:21,23 85:21,25 86:5,12 90:5 112:10 124:11 ERRATA 149:2 escalators 92:7 escapes 111:25 ESQ 3:8,14,20 4:8 4:14,20 Esquire 6:9,11 essentially 89:16 estate 1:11 62:18 event 52:13,24 88:24 everybody 73:4 exact 68:2 exactly 40:23 78:6 79:22 87:10 92:24 93:9 118:17 exam 19:4 EXAMINATION 6:18 145:3 examined 6:16 example 59:21 75:9 examples 73:6 exams 16:15 excel 22:10 exchange 84:15 85:20 101:15 exchanged 83:22 exhaust 78:20,21 87:8 89:21 90:3,4 exhibit 42:8,10 49:3 49:18,21,23 50:6 53:7 55:16,18	70:9 79:15,16 83:9,11 85:19 86:14 92:11 93:23 93:25 100:25 101:3 112:18,19 114:9,10 117:24 118:12,22,24 119:3,5 122:4,6 123:15,16 124:17 124:18 125:15,16 126:9,10 127:7,8 127:24,25 128:22 128:23 129:8 130:7,8 131:13,14 132:9,10 133:6,7 134:12,13 135:12 135:13 136:11,12 137:25 138:3,22 138:23 139:4,16 140:7,8 141:3,4 142:2,3 145:11,14 145:17,20,23 146:2,5,8,11,14 146:17,19,21,23 147:2,4,6,8,10,12 147:14,16,18,20 147:22,24 148:2,4 148:6,8,10,12,14 exhibits 49:15 116:7 139:10 145:9,10 existed 56:25 exists 121:7 expand 76:24 expanding 31:15 expansion 19:7 expect 15:2 expected 16:8 81:8 experience 17:7 18:11,13 124:10 127:4,21 128:18 131:2 133:3 134:9 135:9 136:8 137:23 138:20 140:5,25 141:24 142:24 expert 96:7 expertise 33:2 Expires 149:25 explained 62:16,22 express 30:24 expressly 102:17 extended 36:12 extent 99:6,16 F F 144:2 facilitate 94:20 facilities 44:25 Facilities/Central	43:12 facility 33:18,20 34:11 40:16 fact 46:4 57:24 103:17 104:15,17 factors 19:7 failure 53:14,16,17 fair 55:3 83:22 91:19 129:13 130:2 familiar 47:15 50:12 55:4,9 56:17,23 57:15 71:10,12 76:17 77:23 91:25 93:18 96:16,20 98:20,25 99:6,25 111:11 familiarity 117:21 117:25 118:4,5 familiarize 57:20 familiarizing 58:2 family 90:15,22 143:4 fans 78:20 87:8 89:3,6,8,9,11,12 89:15,15,22,22 90:2,3,4 far 64:2 66:13 FARGO 1:15 fashion 17:13 fast 139:13 FDNY 52:16 fed 95:4 110:5,7 feeds 71:19 feet 78:12,13 108:19 field 21:23,25 22:6 22:10 file 10:11,11 11:13 116:17 117:5 files 10:10,20,24 11:5,8,10,14,19 12:2,6,6 filing 5:4 fill 110:11 final 17:21,23 128:7 find 10:13 118:7 fine 34:24 139:3 finish 8:13,14 finished 78:22 107:7 fire 37:7 50:25 51:5 52:9,13,15,24 73:7,11,14,22 95:21 96:3,10,13 102:3,13 103:8,17 104:7,10 107:16 107:20,22 108:6 108:21 109:14,25 110:3,5,10,15,16
--	--	--	---	---

112:11 122:13,25 123:5,6,23 124:6 124:25 125:12,22 130:16 131:21 132:17 133:21 134:20 135:20 138:10 140:15 141:12 142:10 fireproof 99:15,17 fireproofed 99:8 fireproofing 98:21 99:2,9,13,24 100:3,9 firm 6:9,23 91:7 98:16,18 first 17:20,22 19:12 20:19 42:8 48:11 49:16 61:4,7 63:14,15 80:12 81:15 101:25 102:2,6,7,9 111:25 fit 44:4 fits 22:3 five 23:11 100:9 139:5 flagged 58:23 flammable 20:17,20 21:6 Flom 2:8 4:10 floor 4:6 77:3,3,4 77:17,20 78:19 81:7 82:16,24 86:17 89:13 101:14 103:15,18 108:15 125:23 126:17,18 130:17 floors 77:5 78:18,19 80:21 89:8 131:22 132:18 133:22 Florist 120:15 flurry 101:18 focus 31:6 41:20 focused 61:23 focusing 50:6 66:21 folders 10:11 11:13 following 30:2 46:17 follows 6:17 force 5:13 forgot 30:8 90:10 form 5:7 15:3 32:22 33:23 36:15,20 38:6,7 42:22 44:21 47:11 48:18 51:7 52:11,25 55:6 56:20 57:12 57:23 60:9 61:17 62:4 63:10 66:9 68:18 72:8,15	73:24 74:5 75:12 76:2 81:11 85:6 86:4 88:5 95:23 96:5 99:4,20 100:6,12,17 105:5 109:15 118:3 123:9 formulas 19:6 Fort 26:16 forth 144:11 fortunate 98:10 found 129:25 foundation 67:16 104:2 fountain 87:7 four 4:12 28:7 30:5 54:6 86:25 89:12 92:5 104:25 105:6 105:9 124:16 fourth 101:14 four-step 17:9,17 fractionation 14:8 frame 25:14 fulfilling 16:7 full 86:21 120:7 fully 7:23 function 18:7 104:11 functionality 86:21 functioned 79:12 further 5:6,10 23:24 89:8 144:15	Giffin 4:20 6:19,22 42:7 49:2,7,13,21 50:2 54:11 55:15 56:22 60:17 70:7 79:14 83:8 85:8 85:17 90:14,19 92:9 93:22 100:24 112:17 113:21 114:8,16,20,23 119:3 122:4 123:15 124:17 125:15 126:9 127:7,24 128:22 130:7 131:13 132:9 133:6,14 134:12 135:12 136:11,15,20 137:4,25 138:22 139:2,6,12,15 140:7 141:3 142:2 143:2 145:4 give 15:15,19 65:6 68:2 given 16:16 144:14 Glassboro 12:18 GMAC 1:10,16 go 7:11 15:21 25:18 26:15 27:4 30:15 34:18 64:17 72:16 87:19,22,23,25 89:5 116:20 118:10 139:9 goes 74:22 going 49:9,14 62:16 84:17 95:18 136:15 138:2 139:3,10,13 gold 13:2 16:24 17:5,11,22 18:14 18:22,25 19:10,11 19:15 20:5,12 21:18 good 6:20 25:17 45:18 64:3 71:6 76:15 113:11 130:6 gotten 119:21 124:12 grade 24:8 78:17 graduated 24:3 great 32:11 114:21 grids 84:25 ground 7:11 group 28:23 29:23 31:15 32:6 33:17 39:11 41:24 43:12 43:20,21,23 44:4 44:10,15,24 52:14 52:18,21 58:5,8 111:11	groups 63:20 69:4 guess 18:23 26:23 41:9 65:5 67:6 guy 52:17 <hr/> H <hr/> H 38:24 half 9:9 19:21,24 25:4 61:11 Hallmark 120:15 hallway 106:15 Hamann 94:15,16 hand 144:21 handle 88:8 hands-on 15:21 happened 30:18 happening 95:18 hard 62:5 head 8:9,9 109:5,6 heading 43:11,16 50:12,20 56:11 headings 43:2 healthy 84:25 heard 43:22 63:7 heat 37:20 heating 28:17 76:18 held 2:7 6:6 help 67:22 84:24 hereinbefore 144:11 hereunto 144:20 Herman 47:14 Hess 21:3 24:12,17 24:24 26:16 27:9 Hickey 111:24 112:3,6,14 113:9 113:15 115:20 116:2 119:17,22 121:4 122:16 124:2 125:5,25 126:20 127:14 128:11 130:19 131:24 132:20 133:25 134:24 135:24 137:3,17 138:14 139:23 140:19 141:16 142:14 hierarchy 48:14,21 high 12:14 18:9 highest 52:17 history 12:14 23:20 hold 70:22 129:11 130:4 HOLDERS 1:16 hope 110:20 hose 137:14 139:20 140:16 141:13 142:11 hour 9:9,9	hours 15:12,14,20 57:7 91:11 House 74:14 77:24 hrs 56:17,17 Hudson 37:23,25 Hughes 4:23 hundreds 79:23 HVAC 27:19 28:12 28:13,16 37:7 59:22 77:2 112:9 <hr/> I <hr/> ID 145:10 idea 76:15 identical 129:10 130:3 identification 42:12 49:20,25 55:20 70:11 79:18 83:13 92:13 94:3 101:5 112:21 114:12 119:7 122:8 123:18 124:20 125:18 126:12 127:10 128:3,25 130:10 131:16 132:12 133:9 134:15 135:15 136:14 138:5,25 140:10 141:6 142:5 145:13,16 145:19,22,25 146:4,7,9,12,16 146:18,20,22,24 147:3,5,7,9,11,13 147:15,17,19,21 147:23,25 148:3,5 148:7,9,11,13,15 identified 45:19 86:25 93:11 98:3 121:14 identify 15:24 84:20 85:21 118:21,23 identifying 85:24 imagine 79:23 88:18 immediately 18:24 impacting 71:21 impair 7:22 important 8:8,11 impossible 75:18 105:24 improvements 33:8 incident 52:16 121:2 incidents 57:8,9 include 36:13 included 60:13 Including 61:21,22 inconvenienced
---	--	---	---	---

86:22 incorporated 33:8 increasing 17:13,14 independent 16:12 59:9 73:8 indicate 82:11 indicated 101:22 121:16 individual 14:13 47:15 84:2 93:2 98:17 individuals 44:19 45:5 46:8 48:8 54:8,15 Industrial 6:24 industry 27:8 infer 74:22 inferences 44:3 information 91:22 91:23 100:15 110:25 111:7,10 111:14,18,21 112:5 114:3 115:19 121:20,23 125:4,7,24 126:3 126:19,22 127:16 128:10,13 129:17 130:18,21 131:23 132:5,19 133:24 134:6,23 135:3,6 135:23 136:3 137:16,19 138:13 138:16 139:22,25 140:18,21,24 141:15,19,23 142:13,17,21 Informational 13:25 informed 22:9 infrastructure 59:23 60:15 Innovation 120:16 inside 88:22 107:7 109:6 installed 59:19 instance 78:12 106:7 120:10 instructions 52:15 Insurance 1:5 3:17 111:12,15 137:7 Insurers 6:24 interaction 32:15 interconnect 73:8 interconnected 72:24 74:4 interconnectedness 73:22 interconnection 121:24 interested 59:7	144:18 interim 40:15 International 1:4 9:25 10:23,25 11:2 31:12 32:4,7 32:8,9,16,20 33:17 interrupt 78:25 introduce 42:7 49:15 55:15 60:17 70:7 79:14 83:8 92:9 93:22 100:24 112:17 114:8 119:3 introduced 6:21 INVESTMENTS 1:11 involve 15:6 involved 14:22 32:12 40:4 41:23 46:16,17,19 58:12 66:14 IRI 4:17 isolate 84:23 88:13 items 58:7 60:16 86:25 J January 23:6 Jasper 39:13,19 Jasper's 39:14,16 Jeff 39:13 JEFFREY 3:20 Jersey 1:10 4:5 12:19 13:2 16:24 17:25 25:8 26:17 42:3 job 1:25 22:23 25:12 26:8 29:14 40:9,20 41:11,18 41:21 52:3 55:2 57:17,21 60:23,24 61:15 62:2 63:8 64:8 76:16 93:17 95:19 jobs 24:23 26:25 John 65:20 112:3 119:16 124:2 128:11 140:19 Jones 98:15 journeyman's 12:22 13:10 16:8 16:20 21:18 Joyce 1:24 2:10 6:10 144:7,25 JSM 1:7 July 46:16,17,18 47:6,12,13,18,19 48:13 51:3,9,10 51:16,20,22,25	52:2,23 54:11,12 59:4 62:14 67:24 70:23 92:20 94:12 95:13 June 80:4 84:11 K K 6:14 7:5 KATZ 3:10 keep 10:9 11:5,13 57:7 97:7 keeping 97:4 kept 10:19 12:9 114:4 killed 30:5 kind 13:24 14:6 18:12 51:15 60:13 100:14,16 109:10 112:5 kinds 109:10 112:8 kitchen 82:20 83:6 knew 97:24 know 8:2 22:8,10 30:12,12,21 34:21 42:14 43:4 44:3 47:2 50:3 54:19 55:21 56:25 57:4 58:19,25 60:11 61:3,10 62:25 65:14,15 70:17 83:14,16 88:6,8 90:13 97:15,19,22 99:5,12,16 102:9 106:12 107:25 113:5 114:22 117:5 119:13,20 121:6 123:4 124:9 knowledge 19:6 59:9 132:6 known 95:9 L L 6:14,14 7:5,5 label 10:17 labeled 70:8 116:14 Labor 12:23 13:11 laboratory 24:18 25:7 lack 67:15 Lacks 104:2 large 14:4 19:8 22:18 largest 88:19,20 law 6:23 layoffs 27:8 leading 51:24 52:2 60:21 lease 40:14,19,24 41:2 60:21 61:4 61:14 62:6,13	67:18 111:4 112:7 113:10 115:21 116:3 122:17 124:3 132:21 134:25 135:25 141:17 142:15 leasing 61:5 111:16 119:17 leave 26:5 69:20 90:12,16 143:3 Lee 38:22 left 25:12 68:5 legal 37:3 Leonard 47:2 letters 11:11 let's 23:23 38:18 49:2 66:25 77:16 85:9 97:9 109:4 level 17:9,20,21 19:17 24:7 73:9 75:22 77:2,11,15 77:16,19 78:10,13 95:9 108:17,20,20 109:21 110:9 115:7,16 117:13 117:18 118:25 119:12 120:3 123:24 124:7 125:2,12,23 137:14 139:20 140:17 141:13 142:11 levels 17:18 78:10 Lexington 3:6 Liberty 95:7 license 13:4 17:10 17:11,11,12 18:23 18:25 19:3,11,13 19:16 20:2,6 21:9 21:19,19 licensed 13:2 licensing 17:7 18:6 life 43:9 71:21 light 72:4 130:5 lighting 83:2,4,4 limit 40:17 limited 29:11 line 56:15 79:21 80:6 84:5,12,21 85:22,25 86:6 92:17 95:3 101:24 113:2 115:6,12 117:7 119:11 121:12 122:13 123:23 124:25 130:16 131:21 133:21 134:20 135:20 137:13 138:10 139:19 140:15 141:12	142:10 149:7 LIPTON 3:10 list 43:25 44:19,23 45:13,19 46:8 48:13,16 50:16,20 53:10 54:3,15 59:5 81:16,19 82:10 86:5,24 92:2,5 listed 43:13 48:16 48:24 LITIGATION 4:5 little 10:15 14:20 15:10 18:5 41:16 42:24 74:18 76:7 76:24 103:2 live 86:20 LLC 1:8,9,12,13,14 1:14,14 LLP 3:16 4:10,16 load 84:17,17 89:16 89:23 93:8 loading 74:14 lobby 78:14 87:6,16 87:19,21 88:17 located 9:18,21 10:3 76:22,23 77:2 78:18,19 80:18,20 95:6 97:19 105:10 107:25 location 26:18 39:25 69:19 81:5 97:22 107:12 110:16 locations 79:2,8,9 82:9 120:8 121:16 137:14 139:20 140:16 141:13 142:11 log 57:7 long 9:8,21 10:3 19:22 28:5 29:14 35:3 39:22 65:4 67:4 71:3 longer 66:14 69:15 120:9,12 121:15 look 58:16,19 59:5 73:5 120:10,14 129:12,14 looked 116:7 129:6 looking 44:24 61:10 74:7 118:14 128:8 looks 25:16 42:24 54:21 56:3 92:2 92:24 loop 115:16 117:13 117:17 119:12 120:3 124:6 125:12
---	---	--	---	---

looping 118:25 loose-leaf 116:10,21 119:24 loss 31:2 lost 12:7 63:25 68:3 lot 19:5,5,6 26:7 42:25 52:3 54:20 60:24 62:8 77:13 78:15 79:22 85:2 90:4 102:21 110:4 111:9,10 113:14 120:20 lower 56:10 Luggage 120:16 Lynn's 120:15 L44S/B 82:21 M M 6:14 7:5 28:4 machinery 15:17,18 37:21 Madison 4:6 Magnelli 98:19 magnitude 17:8 main 94:21,25 95:3 95:9 115:7 117:13 117:17 maintain 11:19 33:18 34:11 86:21 maintained 117:2 122:22 126:24 128:14 129:20 141:20 142:18 maintaining 33:15 34:9 maintenance 14:4 14:23 22:21 27:19 28:23 29:18,23 30:3 31:5,25 35:4 35:11,21 36:8,12 39:11,12,15,22 41:3,5 45:10,14 46:9,20,23 47:7,8 47:20,24,24 54:22 63:17 65:2 66:23 68:25 88:15 97:13 major 10:18 60:15 makeup 110:7 making 63:4 mall 74:13 105:16 106:2,10 Malopolski 1:20 2:7 6:4,20 7:4,6 9:17 42:10 49:18,23 55:18 70:9 79:16 83:11 85:16 90:11 90:15 91:15 92:11 93:25 101:3 110:20 112:19 114:10 119:5	122:6 123:16 124:18 125:16 126:10 127:8,25 128:23 130:8 131:14 132:10 133:7 134:13 135:13 136:12 138:3,23 140:8 141:4 142:3 143:2 143:12,20 144:10 145:4,10,11,14,17 145:20,23 146:2,5 146:8,11,14,17,19 146:21,23 147:2,4 147:6,8,10,12,14 147:16,18,20,22 147:24 148:2,4,6 148:8,10,12,14 149:5,22 Malopolski-Conf.. 6:1 7:1 8:1 9:1 10:1 11:1 12:1 13:1 14:1 15:1 16:1 17:1 18:1 19:1 20:1 21:1 22:1 23:1 24:1 25:1 26:1 27:1 28:1 29:1 30:1 31:1 32:1 33:1 34:1 35:1 36:1 37:1 38:1 39:1 40:1 41:1 42:1 43:1 44:1 45:1 46:1 47:1 48:1 49:1 50:1 51:1 52:1 53:1 54:1 55:1 56:1 57:1 58:1 59:1 60:1 61:1 62:1 63:1 64:1 65:1 66:1 67:1 68:1 69:1 70:1 71:1 72:1 73:1 74:1 75:1 76:1 77:1 78:1 79:1 80:1 81:1 82:1 83:1 84:1 85:1 86:1 87:1 88:1 89:1 90:1 91:1 92:1 93:1 94:1 95:1 96:1 97:1 98:1 99:1 100:1 101:1 102:1 103:1 104:1 105:1 106:1 107:1 108:1 109:1 110:1 111:1 112:1 113:1 114:1 115:1 116:1 117:1 118:1 119:1 120:1 121:1 122:1 123:1 124:1 125:1 126:1	127:1 128:1 129:1 130:1 131:1 132:1 133:1 134:1 135:1 136:1 137:1 138:1 139:1 140:1 141:1 142:1 143:1 manage 41:25 managed 55:12 70:2 management 1:9 41:24 43:5,6 64:15 65:9,11 66:6,25 67:5,10 67:13 95:16 100:19 111:8 113:15 manager 31:24 65:18 Manhattan 6:6 78:10 manner 48:23 66:8 manual 128:14 129:21 130:22 135:4 manually 104:24 107:11 108:7 manuals 116:8 124:15 125:8 126:4,23 127:17 132:3,24 134:4 136:4 137:20 138:17 140:2,22 141:20 142:18 manufacturer 32:25 map 97:25 98:5 120:17,20,22 121:3,6,8 March 101:16 marine 24:25 26:6 mark 49:2 122:4 marked 42:12 49:20,25 55:20 70:11 79:18 83:13 92:12 94:2 101:5 112:18,20 114:9 114:11 119:6 122:7 123:17 124:19 125:17 126:11 127:9 128:2,24 130:9 131:15 132:11 133:8 134:14 135:14 136:13 138:4,24 140:9 141:5 142:4 145:12,15,18,21 145:24 146:3,6,9 146:12,15,18,20 146:22,24 147:3,5	147:7,9,11,13,15 147:17,19,21,23 147:25 148:3,5,7 148:9,11,13,15 marriage 144:17 Martinez 4:24 6:8 massive 72:22 material 90:20 99:15,17 materials 21:6 matter 6:4 7:9 11:15,23 14:3 53:21 84:15 92:22 101:11 144:19 matters 22:16 maximum 19:7 Meagher 2:8 4:10 mean 33:20 38:4 41:12 59:18 65:24 66:19 69:16 79:5 89:12 99:5 108:24 meaning 68:22 105:2 means 8:7 14:21 28:16 96:24 107:19 meant 43:17,25 51:18 53:14 75:5 78:7 81:23 82:11 82:23 91:23 102:9 103:12 measured 78:12 mechanical 14:5,6 33:18 34:12 35:20 35:23 36:13 41:5 45:10,14 46:10 52:21 55:5 58:6 58:17 71:11 77:6 77:19,21,24 78:13 79:2 80:22 86:19 89:4,12 96:25 108:5,13,16 111:2 112:12 116:9 meet 9:8 90:23 meeting 9:11 members 99:14,17 memorandum 94:20 95:12 memorized 19:6 mention 30:16 mentioned 16:12 17:18 19:25 68:17 131:8 mentions 74:10 MER 77:12,16 MERs 87:7 89:3,5 MER's 77:7,8 message 56:4,12 84:8,9 metaphysical 54:16	meter 71:19 method 72:10 76:11 mid 40:10 middle 86:24 101:25 102:6,7 118:15 Middlesex 18:19 mind 23:7 72:20 minimal 91:13 MINNESOTA 1:15 minute 44:5 mirrors 115:17 mischaracterizati... 104:2 mischaracterizes 34:17 66:12 mischaracterizing 45:24 mispronounce 47:3 missed 98:23 misspoke 32:10 Misstates 66:11 misunderstood 46:13 mixed 48:20 model 41:3,13 modifications 33:7 60:14 moment 40:18 93:8 110:23 momentum 61:8,11 Monday 1:21 monitor 15:22 month 64:5 months 10:5 19:3 51:24 52:2 62:13 Morgan 101:13 MORTGAGE 1:10 1:16 MORTGAGE-B... 1:17 motor 105:6,9,22 105:23 106:5,8 motors 14:7 move 17:8,17 19:20 19:23 28:21 29:21 35:9 39:19 103:16 103:19,20 107:20 moved 10:22 11:3 39:16 66:5 67:13 91:6,8 movement 58:13 multiple 75:16 Myer 98:15 N N 3:2 4:2 6:14,14 28:4 68:12,12,12 145:2 numic 6:8,22 7:2,3,4
--	--	---	--	---

28:3 38:23 43:13 43:21 50:16,20 68:8 111:24,25,25 149:4,5 named 39:8 67:21 82:7 84:2 names 43:14,25 48:23 53:10 54:2 Nancy 84:2 narrow 64:4 74:23 nature 58:13 near 63:24 necessary 90:16 94:21 need 17:8 23:24 30:14 58:19,19 90:11,21 143:10 needed 15:24 58:24 97:13 111:10 118:7 needs 37:21 90:22 Nemec 28:2 net 40:14,24 never 43:22 53:23 58:22 72:9 76:10 76:10 new 1:3,10,10,21,21 2:9,9,11 3:7,7,13 3:13,19,19 4:4,4,5 4:7,7,13,13 6:7 9:19 10:8,25 12:18,25 16:24 17:25 25:8 26:17 42:3,3 62:18 98:16 105:20 144:3,5,8 Newark 9:25 10:23 10:24 11:2 27:20 28:6,13,24 29:11 32:4,7 night 18:17,18,21 nightmare 71:14,18 75:10 nodding 8:9 normal 58:22 114:4 normally 57:2,13 north 82:5 105:20 northeast 82:7 northwest 82:7 Nos 42:11 49:19,24 55:19 70:10 79:17 83:12 101:4 145:12,15,18,21 145:24 146:3,6,15 Notary 2:10 6:16 144:7 149:24 note 91:5 noted 143:17 notice 2:10 94:10 notification 84:16	notify 95:16 number 6:3 74:8 78:3 85:12,15 118:16 numbered 43:11 N's 68:13 N.A 1:15 N.W 4:18 <hr/> O O 6:14,14 7:5,5 68:12,12 oath 5:13 7:18 object 15:3 32:22 33:23 36:15,20 37:5 38:6,7 42:22 44:21 45:23 47:10 48:18 51:7 52:11 52:25 55:6 56:20 57:12,23,24 60:9 60:10 61:17,18 62:4 63:10 64:21 66:9 67:15 72:8 72:15 73:24 74:5 75:12 76:2 81:11 85:6 86:4 87:14 88:5 89:24 93:14 95:23 96:5,6 99:4 99:20 100:5,12,17 103:25 104:13 105:5 109:15 118:3 123:9 Objection 34:16 60:7 68:18 87:4 89:18 objections 5:7 obligations 143:4 obtain 98:6 obvious 53:17 Occupancy 103:8 occur 9:6 51:5 52:9 65:13 80:17 occurred 57:9 62:25 63:23 64:6 October 144:21 offered 22:3 offers 73:6 75:9 office 9:17 10:3,6 10:10,22,25 18:7 44:8,9 officer 5:12 offices 2:7 Oh 37:3 102:7 okay 8:4,17 24:2 42:16 55:23 66:3 74:9 102:7 114:20 133:16 old 41:3 once 106:16 108:13 ones 97:24 108:12	109:2,20 opened 41:14 61:7 operate 13:3,4 20:2 26:3 33:17 34:11 66:7 71:20 73:13 73:15 105:2 106:4 106:15 107:2,11 107:12 operated 15:9 58:4 76:8 88:3 104:24 106:8,13 108:7 operating 15:17,20 18:9 33:15 34:9 72:6 95:17 operation 14:4,23 15:18 27:19 45:9 46:9,20,22 56:16 56:24 57:5 59:10 71:22 72:10 76:11 operational 71:14 71:18 75:10,19 Operationally 75:23 operations 35:21 41:5 43:7 54:22 55:10 56:18 57:2 57:14,16,21 58:2 58:8,9 66:14 79:7 79:9 86:19 106:16 operator 12:24 13:12 14:19 25:25 62:23 operators 105:7,9 105:22,23 106:5,8 opinion 75:24 opportunity 26:7 26:24 27:6 30:23 opposed 63:21 orally 8:8 orange 116:11,21 119:24 122:20 124:15 136:24 order 18:13 37:20 48:22 84:24 105:2 119:21 136:16 orders 15:24 organization 14:14 42:25 organized 10:12 11:8,22,24 48:14 Original 56:12 outcome 144:18 outlined 74:12 outlines 72:18 Outlook 56:4 outside 16:14 28:13 33:16 58:13 74:11 105:19 106:17,17 overlapping 45:6 oversee 38:9	overseeing 15:18 o'clock 139:5 <hr/> P P 3:2,2,20 4:2,2 6:14 7:5 68:12,12 PA 58:11 page 21:16 43:11 80:12,14 81:14,15 81:16 86:25 90:8 91:16,24 102:2,24 118:15 138:2 145:3 149:7 pages 139:7 panel 82:21 83:2,4 83:5 88:7 paragraph 74:8,10 74:19,21,25 80:13 80:17 101:25 102:6 Park 37:24 parking 75:21 part 16:11 18:16 20:7 25:21 34:6 37:10 43:20,23 56:2,8,11 60:11 61:22 73:21 74:9 96:7 116:7 particular 91:2 115:24 118:5,14 parties 5:4 144:16 parts 33:3 Pass 16:10 passed 17:15 98:7 Passeri 39:9 42:6 PASS-THROUGH 1:17 Path 120:14 pay 26:8 PE 4:23 peak 84:24 peers 48:11 pending 30:14 people 18:9 29:4,6 30:5 31:8,16 32:2 32:11 44:3,7,12 45:3,19 46:2,5,15 46:16 48:15 53:11 54:23 57:6 58:13 59:6,7 69:13,23 70:4 83:22 95:17 95:17 103:16,20 111:9,10 perception 63:6 perform 19:18 88:15 performed 56:18,21 performing 63:17 68:25 period 40:21 48:13	51:17 62:13 permanently 59:20 person 14:22 15:16 15:17 83:15 89:4 personal 62:2 Personally 15:21 personnel 106:19 pertains 32:17 Perth 25:20 pertinent 22:23 58:20 petroleum 14:15,24 24:21 25:10 26:3 phase 26:21 Phil 39:2 Philip 94:14 phrase 59:14 phrased 40:7 physically 15:16 45:3,20 105:3 107:10 pictures 116:11 117:11 pic 97:9,11 piece 88:19 97:11 pieces 35:25 36:3 Pink 105:21 piping 14:8 59:23 97:2 121:22 Pipitone 68:7 pizza 97:9 place 9:12 32:20 60:12 62:12 76:23 91:4 Plaintiff 1:6 3:5 plan 72:19 plant 13:3 20:21,21 20:23,25 27:8 31:7,10,19,22,24 32:12,18 34:8 36:4,5 41:4 43:12 44:25 58:5 59:22 112:10 plants 13:5 20:2 33:14 plaza 74:13 87:7 please 6:12 7:3 8:2 15:11 23:19 28:3 30:12,21 42:15 44:6 45:8 55:22 68:9 80:2 84:15 92:23 94:9 96:24 99:13 103:14 108:3 130:13 plenty 91:11 point 8:2,10 12:5 29:10 30:10 40:4 45:17,18 46:7 51:9,11,14 53:4 59:3 61:2,9,13,25
---	--	--	--	---

64:20,25 65:23 66:17 67:9,12,19 69:20 78:9 111:22 111:23 poorly 40:7 Port 1:9 4:4,11 23:2 26:24 27:5,14 30:25 31:17 32:16 32:20 33:11,25 39:20 40:18 42:2 44:10,16 47:5,17 54:24,25 61:3 65:21,25 70:21 100:2,7,21 114:4 116:22,24 117:2,6 122:22 125:8 126:4,23,24 127:17 128:14 129:20 130:22 132:2,23 134:3 135:4 136:4 137:20 138:17 140:2,22 141:20 142:18 porters 58:11 portion 86:16,16 91:17 97:7 portions 88:13 97:4 97:4 PORT/SRI 42:9,11 49:3,19,24 55:17 55:19 70:8,10 79:15,17 83:9,12 92:10,12 93:23 94:2 100:25 101:4 145:12,15,18,21 145:24 146:3,6,9 146:12,15 position 26:5 27:13 27:21 28:21 29:17 29:20 35:9 39:14 39:17,20 47:5,17 65:4 67:5 68:5 70:22 positions 48:17 possibility 50:25 51:5 52:9 113:11 possible 7:13 30:21 106:25 107:3 109:13 110:15 possibly 71:21 power 53:13,15,17 73:11,14 75:2,20 80:19 83:6 84:19 84:25 85:2 93:5 93:13 preparation 9:15 prepare 8:19,22 present 4:22 8:25 pressure 18:8,10	109:2,5,12 110:11 pressures 19:8 pretty 41:12,15 53:17 64:3 139:13 previous 86:14 119:24 122:20 124:15 126:16 previously 26:4,19 primarily 31:12 primary 31:6 111:22,23 prior 10:6 18:22,24 19:3 34:17 35:22 36:18 37:10 40:15 40:18,24,25 46:3 46:16 47:13,18,19 48:13 49:14 51:3 51:9,10,20,21,22 52:5,7,23 54:11 54:12 59:4 62:6 70:22 85:19 96:17 98:21 99:3,18 120:4,25 123:7 124:7 125:13 priority 41:24 privy 100:14 probably 10:17 15:12 25:4 88:21 115:22 116:13 117:9 119:19 122:18 124:4 125:6 126:2,21 128:12 130:20 131:25 134:2 135:2 136:2 137:18 138:15 139:24 140:20 141:18 problems 15:24,25 procedures 22:21 33:4 proceed 103:5 process 12:23 13:11 14:19 17:6,9,17 17:24 19:20,23 32:13 40:12 41:8 41:17 72:5 106:14 106:21,22 120:23 produce 91:14 produced 98:8 116:18 120:8,25 products 24:22 25:11 progressive 17:6 project 43:6 64:14 65:11 66:6,24,25 67:5,9,13 99:25 projects 41:24 65:8 promotion 29:18 35:12,18,22 36:19	pronouncing 94:15 properties 1:8,8 46:24 67:22 69:21 69:22 70:3 72:23 property 43:5 95:16 proponent 72:9 76:10 proprietary 102:3 102:13,16 103:23 104:4,11,15 protect 37:4 protection 37:8 provide 96:15 110:25 111:6,9,14 111:18,20 112:6 112:13 113:8 119:16,21 121:3 122:15 127:13 provided 115:19,25 125:4,24 126:19 128:10 130:18 131:23 132:19 133:24 134:23 135:23 137:16 138:13 139:22 140:18 141:15 142:13 public 2:11 6:16 63:19 69:3 97:25 106:18 144:7 149:24 pulled 85:2 137:6 pump 36:5 37:11,23 58:18 73:12,14,16 110:15,16 122:24 123:6 pumps 14:7 37:25 59:23 107:16,20 107:22 108:6,21 108:25 109:6,14 110:2,2 purpose 95:12 purposes 75:19 137:7 pursuant 2:9 put 27:7 40:13 84:25 105:22,23 106:6 143:6 p.m 2:4 143:15,17 Q quadrant 81:20,21 88:20 89:10 quadrants 82:2,6 82:13 88:11 89:9 qualifying 19:10 question 5:8 7:25 8:4,13,15 30:14 30:14 32:23 34:5 40:6,7 45:25	47:11 51:12 53:2 53:20 54:18 56:21 57:25 58:3 64:24 66:10 68:19 72:16 76:6,8 95:24 97:23 99:21 100:4 100:6,13,18 109:16 questions 7:14,16 7:17,23 23:25 139:11,12 143:8 143:11 quickest 19:19 quite 19:4 112:8 R R 3:2 4:2 68:12 144:2 rack 95:4,5 137:14 139:20 140:16 141:13 142:11 ran 82:4 95:7 ranking 52:17 rational 62:22 raw 60:15 Raymond 47:22,23 read 50:21 58:10 73:13,19 80:25 103:2 readily 107:4 reading 80:6 reads 50:13 56:15 80:17 94:20 real 1:11 62:17 realized 71:17 really 53:21 61:8 109:19 reason 7:20 57:19 84:7 92:18 121:19 136:21 reasons 72:17 rebuild 26:20 33:4 rebuilding 31:6,9 31:19 32:13,17 33:14 34:7 recall 13:15 17:2 65:16 69:12,21 83:20 92:16 105:8 109:19,23 121:5 receive 13:6,14 18:6 19:12 20:15 84:8 94:11 101:19 104:5,6 received 12:9 23:15 56:6 92:19 receiving 18:22 19:3 35:22 Recess 49:10 85:13 recognize 43:2 54:2 54:7	recollection 56:5 reconstruction 72:22 record 6:22 7:3 18:3 28:16,20 37:4 49:9,12,14 78:2 90:11,25 141:7 143:6,8,10 144:13 records 63:25 rectify 16:17 red 17:11 19:12 20:10,12 Redding 26:16 reduce 84:19 reduced 95:14 reduction 93:5,13 redundancy 90:4 redundant 86:11 refer 43:17,25 53:14 56:10 77:12 80:10 81:13,24 82:23 90:7 101:24 102:9,24 118:6 reference 74:7 75:6 78:3 81:19,20 82:10,20 118:10 118:11 137:8 referred 43:22 77:5 77:14 78:3,16 85:3 115:10,12 referring 44:10 48:12 52:19 71:14 87:6,9 100:20 refers 58:17 89:7 92:5 93:4 101:12 131:9 refinery 14:24 15:7 15:8 18:15 20:24 24:12,24 25:19,25 26:3,16 27:9,11 refining 14:15 27:7 refrigerant 20:18 refrigerants 20:20 21:7 refrigeration 13:5 20:2,13,21,23,25 22:19 31:7,10,19 32:17 33:14 34:8 36:4 37:21 38:2 59:22 112:10 regard 50:25 51:4 66:22 114:5 regarding 143:6 REGISTERED 1:15 Reiss 70:17 71:7,9 71:10,13,17 72:17 73:6,6 74:2,25 reject 37:20
--	---	---	--	---

<p>related 12:3,10 59:14 144:16 relationship 71:7 relative 77:13,15 remained 41:15 remember 27:25 38:20 64:5 65:3 67:7,8,12 115:14 118:9 reminds 30:8 remote 107:12 remotely 108:9,22 108:23 109:14 renovation 107:5 reopened 26:20 reorganizations 62:12 reorganized 41:6 52:3 62:7,9 repair 15:24 repairs 97:14 repeat 98:23 replaced 30:6 report 27:23 38:13 39:5,7,8 42:5 52:14 137:7 reported 1:24 39:10 reporter 6:10,12 8:6,16 represent 6:24 137:4 representation 113:24 117:17 120:2,6 123:5,12 124:5 125:11 represented 112:14 121:24 request 86:3 91:6 require 103:8 required 17:15 18:5 19:11 72:21 requirement 20:16 requirements 13:19 16:20 17:4 21:4 22:6,7 requires 18:11 19:5 102:4 reserve 91:13 110:5 110:10 reserved 5:8 reserving 90:25 respect 52:8 64:23 respective 5:4 response 86:2 responses 110:14 110:17 responsibilities 14:17 24:20 25:9 26:2 27:17 28:11 29:2,11 31:4</p>	<p>33:11,25 35:2,17 40:21 41:11,18,21 41:22 50:24 52:4 52:8,22 55:3 57:17,22 60:23,24 61:15 62:3 63:9 64:9,20 65:2 68:5 69:14,24 76:17 90:24 93:18 95:20 responsibility 17:14 28:12 32:19 34:7 36:17,18 37:11 38:9 45:6,13 46:8 51:4,15,18 52:14 66:18 67:14,20 104:9 responsible 22:9 34:14 35:19,23 58:25 59:10 65:7 68:6,15,16 69:11 85:24 86:8 rest 58:20 79:12 97:8 restaurant 105:14 105:15 106:9 result 93:12 Ret 47:14 retail 105:15,25 106:10,17 120:16 retained 98:11 retired 39:21 return 60:19 89:3,8 89:9,11,14 104:21 review 9:14 42:15 50:4 55:22 70:12 94:4 Reynolds 4:14 8:23 15:3 32:22 34:18 36:15,20,23 37:3 38:7 40:23 42:22 43:18 44:21 45:17 45:23 47:10 48:18 50:22 51:7,24 52:11,25 53:19 54:16 55:6 56:20 57:12,23 59:3 60:7,9 61:17 62:4 63:10 64:21 66:11 66:19 67:15 68:18 72:8,15 73:24 74:5 75:12 76:2 81:11 83:3,16 85:6 86:4 87:4,14 88:5 89:18,24 90:9,18 91:5 93:14 95:23 96:5 99:4,20 100:12,17 103:25 104:13 105:5 109:15 113:20 114:13,18</p>	<p>118:3 123:9 129:22 131:7 139:3,6,9 143:5 right 26:13 27:3 44:24 67:17 68:13 83:3 87:10 90:25 111:25 118:17 120:11 129:7 rights 91:12 right-hand 120:11 rigorous 19:4 riser 113:18,24 125:22 132:17 risers 133:22 134:21 135:21 138:11 risk 6:24 100:19 river 36:5 37:11,23 37:25 38:3 58:18 room 15:23 77:19 78:13 89:13 130:6 rooms 77:6,21,24 79:2 108:13,16 ROSEN 3:10 rough 120:19 row 88:23,23,23 Ruben 4:24 6:8 rules 7:12 run 62:21 75:24 85:9 S S 3:2 4:2 6:14,14 7:5 safer 52:24 safety 22:21 43:9 71:22 Sampling 24:21 25:10 sanitary 37:7 sat 44:12 86:18 136:25 save 84:21 85:22 saving 86:22 saw 79:22 86:13 92:25 111:10 saying 41:19 46:14 109:13 129:23 says 71:17 74:22 81:16 83:6 102:2 118:15 Sharro 105:14,15 Sharro's 106:7 scale 117:9 scenario 16:16,18 schedule 22:4 33:6 91:9 Schematic 117:13 school 12:14 18:17 18:18,19,21 24:3</p>	<p>24:7 schooling 18:11,12 scope 58:14 74:23 SE 81:20 sea 77:15 seal 13:2,4 16:24 17:5,10,10,11,11 18:14,22,25 19:11 20:2,5,15 21:9,18 21:19 sealing 5:5 scals 20:7,10 search 12:2 season 64:5 second 80:16 81:14 81:15 90:7 91:16 94:19 sectional 118:12,15 sectionalization 86:12 sectionalizing 96:21 97:6,16 98:4 104:22 105:4 106:5 107:10 115:11 118:19,24 sections 97:10 secured 58:10 SECURITIES 1:16 security 27:6 43:9 see 8:6 43:14 50:16 57:2,14 58:15,22 58:24 61:10 71:13 71:14,22 73:16 75:14 80:14,22 81:21 82:21 93:5 94:22 103:9 109:25 118:6,11 120:11 130:4 seeing 44:3 seek 22:11,12 seen 42:17,20,25 50:7,9 53:7,24 55:24 56:2 70:15 79:19 83:18 92:14 94:7 101:7 112:22 114:24 115:2 119:8 122:9 123:13,14,19 124:21 125:19 126:13 127:11 128:4 129:2 130:11 131:17 132:13 133:17 134:16 135:16 137:9 138:6 139:16 140:11 141:8 142:6 segregate 71:19 75:11 segregating 75:15</p>	<p>Selected 90:2 Seliga 84:2 seminar 22:24 23:9 seminars 21:23,25 23:5 sender 11:25 sense 15:15,19 54:17 102:16 sent 12:9 59:6 84:2 84:3,4 111:8 sentence 71:15 73:13 75:5 80:16 81:14 94:19,23 102:25 103:4,7 separate 71:20 72:6 74:16 75:18,25 76:9 88:24 129:24 separated 11:14 September 1:21 2:3 12:7,11 30:18 44:8 46:4,5,15 96:18 98:22 99:3 99:18 106:22 107:2,9 120:4,24 123:7 124:7 125:13 149:4 sequence 93:23 133:10,15 series 1:17 7:15 83:21 88:7 96:13 116:8 128:7 130:14 serve 13:21 served 14:10 75:16 88:17 service 83:7 88:15 92:4 93:3 106:8 108:17,20 Services 6:9,11 25:7 session 23:9 sessions 21:23,25 22:25,25 23:5 set 114:18 116:10 144:11,21 setting 109:10 110:13,17 shaking 8:9 share 69:18 shared 87:12 shedding 84:17 89:17,23 93:8 SHEET 149:2 shift 15:7 shine 130:5 short 26:23 49:5 77:7 85:10 shortly 67:25 showing 113:2 shows 130:16 shut 27:9,11 87:18</p>
---	---	---	--	---

87:21 93:12 94:21 97:12 shutdown 80:3,17 81:8 82:18 86:14 91:19 93:4 94:10 shutdowns 27:8 80:7 shutting 87:2 side 30:25 81:7 95:8 signed 5:12,14 67:18 Silverstein 1:8,9 3:11 46:23 67:22 similar 93:7 similarly 74:2 89:21 92:24 Simonetti 47:22,23 SIMPSON 3:4 sir 8:20 12:13 42:17 50:7,17 54:18 55:25 70:13 74:7 79:20 83:19 85:18 91:17 92:15 94:5 101:8 102:25 112:23 114:13 115:3 122:10 123:20 124:22 131:12,18 132:14 133:18 134:17 135:17 137:10 138:7 140:12 141:9 142:7 sit 20:18 109:24 site 41:23,25 105:3 sitting 45:4,20 46:3 105:8 situation 16:15,18 six 19:2 26:11 six-month 18:24 Skadden 2:8 4:10 skip 110:23 Slate 2:8 4:10 slightly 40:6 136:16 smallest 88:19 smoke 96:11,11 smoothly 72:12 sold 40:13 solely 29:11 somewhat 95:23 soon 91:3 sorry 32:9 39:11 46:13 50:25 64:7 64:17 67:7 73:13 76:4 114:13 118:22 123:5 131:4 sort 21:10,11 80:7 sought 22:16 sound 112:3 sounds 25:17 112:4	sources 116:6 south 80:18,20 81:7 82:5 83:4 southeast 82:7,12 SOUTHERN 1:3 southwest 82:8,12 space 45:4,20 46:3 46:6 60:15 63:19 69:3 103:21 105:21 106:6,17 106:18 107:5,6 spaces 98:2 108:5 120:16 spares 114:17 speaker 96:11 speaking 75:23 special 102:4 specialized 23:16 specific 63:21 69:5 69:7,11 76:25 79:23 92:3 104:20 109:20 specifically 109:2 specifications 104:6 104:19 speculate 43:18 50:22 spell 7:3 28:3 38:23 68:8 spent 112:8 spills 81:15 split 64:18 spoke 115:17 sporadic 22:2 spot 44:13 88:25 spreadsheets 11:12 sprinkler 74:3,12 74:15,17 96:9,16 97:2,16 104:23 109:5 110:6 113:3 115:7 116:14 117:13,17 118:25 119:11 120:3 sprinklers 113:19 113:24 115:11 121:20 Square 2:9 4:12 6:6 SR 1:4 6:4 SRI 149:4 ss 144:4 staff 31:13 33:16 34:10 41:4 54:22 staffed 40:16 96:15 staffs 69:17 Stam 38:19,20 stamped 42:8 49:3 49:16 55:16 standpipe 73:7,12 73:14 96:9 122:14 122:25 123:5,6,24	124:6 125:2,12,22 128:8 130:16 131:22 132:17 133:22 134:21 135:21 137:13 138:11 139:19 140:16 141:12 142:11 standpoint 33:19 34:12 Stanley 101:13 start 23:23 38:18 60:13 62:2 109:7 started 41:8 61:14 62:7 starting 23:20,20 starts 81:14 startup 26:22 state 2:11 7:2 12:18 12:25 16:24 17:25 144:3,8 stated 34:20 statement 76:5 states 1:2 78:8 103:7 static 41:12 43:12 43:21,23 44:24 station 36:5 37:24 58:18 82:18 stations 96:14 status 98:20 99:2,5 stay 22:8 84:25 steam 13:3 19:9 36:4 93:19 94:10 94:21,25 95:15 112:10 steel 99:14,16,23 step 45:18 60:18 stepping 115:23 Stickelman 4:8 8:24 34:16 54:10 98:7 121:9 STIPULATED 5:2 5:6,10 store 120:12 stores 77:22 121:15 story 120:7 street 3:12 4:18 70:4 95:7,8 stressing 103:17 strike 51:2 61:2 65:22 87:20 97:23 99:8 111:19 113:17 stroke 96:12 Strong 98:15 structural 45:11,15 46:10 47:8 58:7 structure 20:11 62:24	structures 31:23,24 32:12 41:4 58:5 studied 21:13 136:25 study 44:2 stuff 58:12,20 60:11 63:7 112:8 118:9 subgrade 74:13 75:2,21 77:11,16 87:8 89:21 90:2,3 134:21 138:11 subgrades 135:21 subject 11:14,23 14:3 22:15 56:15 80:6 84:14 92:22 101:11 Subscribed 143:22 149:23 substantially 122:2 substation 75:3,17 80:18 81:4,6 86:15 subway 95:8 suction 37:24 summaries 56:18 56:24 57:21 58:3 summary 56:16 57:5 59:11 summer 40:10 84:18 sunny 130:6 supervising 31:8,23 38:15 supervision 29:4,7 supervisor 27:24 28:23 29:18,23 30:3 31:5,25 35:4 35:11 36:9,12 39:12,15,23 41:3 47:8,20,24,25 supervisory 27:21 48:16,17 supplied 80:20 supply 60:3 94:22 94:25 suppose 59:5 suppression 73:22 95:21 96:4,10 107:21 110:3 112:11 sure 8:16 47:2 48:3 49:7 78:24 84:13 104:10 survey 78:9 98:3 surveyor 24:25 26:6 suspenders 90:5 SW 81:20 swear 6:12 switch 87:25 88:2 sworn 5:11,14 6:15	143:22 144:12 149:23 system 11:17 36:6 37:14 55:5 59:25 63:16 68:24 71:11 72:10 73:12,15,23 74:3,9,13 75:11 76:11,18 79:12 88:17 92:2 95:21 96:4,15,25 97:2,2 97:7,16 102:3,13 103:9,17,22,23 104:4,8,10,11,16 104:17,18,23 110:6,8,12 111:2 122:14 127:22 128:19 131:5 133:4 134:10 136:9 systems 11:20 14:8 15:25 37:7,8,18 38:9 45:11,15 46:10 59:14 60:5 64:18,23 71:20 73:3,7 74:16,18 75:24,25 81:9 87:2,12 88:12 93:10,11 96:9,9 96:12,17 112:12 112:14 113:3 116:9,12 117:21 118:2,5,8 122:25 123:6,14 132:7 135:10
T				
T 68:12 144:2,2				
table 30:25				
take 9:11 10:24				
13:22 16:17 18:13				
18:17 19:10,23				
30:11,15,22,23				
37:6 44:5 49:5				
58:6,9 65:6 67:23				
85:10 86:14,15				
91:10				
taken 49:10 84:21				
85:13,21,25 86:6				
92:3 93:2				
takes 37:24 126:17				
128:8				
talk 8:12 15:12,14				
41:17 61:5 74:17				
110:5 117:24				
talked 109:20				
talking 30:9 44:23				
47:12 60:15 74:11				
75:13,14 78:17				
91:16 109:3				
talks 73:6 74:23				

tank 122:24 123:6 tanks 110:5,10 tape 6:2 85:12,15 tasked 33:17 34:10 taught 24:3 Taylor 39:2,5 teach 24:7 team 67:22 technical 19:4 Ted 38:19 tell 10:9,15 12:13 18:4 22:15 23:4,8 32:10,15 37:9 39:10 41:21 48:2 48:12 51:19 57:4 59:17 66:13 72:4 76:21 78:6 79:25 81:23 84:14 91:22 97:21 122 101:10 103:14 107:18 108:3,15 114:3 120:7 Ten 10:5 tenant 43:5 60:13 64:14 65:8,10 66:5 101:12 104:5 105:21 tenants 86:22 96:12 term 59:18 96:20 96:24 107:16 terms 43:7 48:14 53:24 77:14 test 18:25 19:17 20:18 testified 6:16 57:15 60:22 62:5 65:23 68:22 69:7 76:9 115:25 testify 7:21 testifying 85:18 testimony 32:5 34:17 45:24 61:19 64:22 66:12 144:13 testing 21:11 24:21 25:10 tests 13:23 16:10,11 16:13,14 17:15 TEACHER 3:4 thank 21:8 31:3 47:14 56:22 67:2 113:21 121:10 131:12 139:15 143:12 thereabouts 65:6 thing 73:4 97:13 118:18 130:6 things 19:8 22:22 60:12 62:7 77:13 78:16,18 102:21	think 13:15 23:12 28:2 35:6 72:11 75:17 76:14 91:13 105:20 114:16 129:5,7 131:8 139:14 Thomas 105:21 three 13:22 14:11 19:21,24 26:10,23 29:15,21 35:6 48:7 54:6 89:10 91:11 122:21 124:15 139:7,9 thrust 34:20 Tim 4:8 8:23,24 54:19 98:7 time 5:9 19:19 20:19 21:10 23:8 24:2 25:14 26:23 27:22 28:2 29:5,8 29:8,10 33:9,13 40:18,22 41:14 45:4,17,20 46:7 48:12 49:6,8,11 49:16 51:9,10,14 51:17,21 52:5,6,7 52:20 54:10 59:3 62:12 63:14,15 64:11,13 67:17,21 71:5 83:7 84:18 84:18 85:9,11,14 90:12 91:4,11 95:18 107:4 112:9 120:10,13,17 143:13,14,17 timeline 63:25 64:3 times 2:8 4:12 6:6 31:16 38:17 41:6 52:4 62:9 63:13 64:9 TIMOTHY 4:14 title 25:24 53:13 113:18 117:12 titled 122:24 129:14 today 7:15,21 8:7 8:20 41:21,23 42:5 91:6 105:8 109:24 143:7,13 today's 93:5 told 21:16 34:6 37:9 61:12 65:16 top 56:2 83:25 101:25 topic 60:19 61:7 topics 30:19 tower 63:18,18,18 63:19 65:2 66:23 68:6,15 69:2,2,2,3 69:8,24 75:3,6 80:18 81:7 82:6	82:15,21 86:16 87:7,17 89:3,13 105:20,20 125:23 128:9 130:15 131:8,11,22 132:18 133:22 towers 14:8 73:7 74:15 76:25 81:25 87:13 113:4,20,25 toxic 20:17,20 21:5 track 33:6 trade 1:8,13,13,14 1:14 6:5 10:8 12:10 13:25 14:3 29:25 33:21 35:4 35:14,20 38:5 40:13,19 41:14,25 43:4,8 44:17,19 45:11,16,21 46:11 46:20 47:9,21 51:6 52:10 53:10 53:16 54:9 55:4 56:19 59:15 60:6 60:21 61:4,6,14 62:19 66:2,3,7 68:23 70:24 71:5 71:10 76:19 77:10 77:18 78:11 79:4 80:8 81:9 82:14 85:4 86:2 87:13 88:3,12 92:6 93:11,19 95:6,10 95:21 96:3,17 97:17 98:2,21 99:2,7,10,18 100:3,10 101:13 102:11,12,13,18 102:20,22 103:23 104:3,12,23 105:16 106:2,19 107:23 108:7 111:2,3,16 112:7 113:3,9 114:6 115:8,20 116:2 119:18 120:4 122:14,16,25 123:7,24 124:3 125:2 132:20 134:22,24 135:22 135:24 137:15 138:12 139:21 140:17 141:13,16 142:12,14 trained 18:15 training 18:11,12 21:21,23,25 22:3 22:16,24 23:5,9 23:16 transcribing 8:7 transferred 46:23	transition 67:22 transparent 110:12 Transportation 43:6 Travelers 3:17 trial 5:9 37:4 truck 78:20 95:9 true 89:3 113:12 117:23 144:13 TRUSTEE 1:15 try 8:2,12 72:20 99:8 trying 32:18 34:13 34:24 44:14 48:15 69:10 tucked 77:21 turn 15:22 53:6 87:25 89:6 turned 113:14 TURNER 3:8 turning 89:11 Twelfth 4:18 twice 27:7 Twin 87:13 twins 73:2 two 23:13 25:5,14 37:18 40:25 48:11 49:15 51:16,19,21 51:22 60:20 62:6 105:13,18,19,25 106:12 116:7 119:24 124:15 129:24,24 TWR 75:5 type 21:20 73:4 types 16:6 139:11 139:12 typical 14:25 U U 38:24 UBS 1:11 ultimately 19:15 uncertainty 47:11 underneath 56:11 understand 7:12,18 7:22,25 8:4 27:9 30:18 32:5 34:5 34:19 36:22,24,25 41:18 43:16 53:25 54:18 59:17 61:12 61:25 62:15,24 65:24 68:19,21 75:6 76:6 79:5 83:25 90:14,21 95:20 96:8 100:4 106:21 109:12 118:7 121:14 136:20 143:3,5 understanding 12:8	34:25 41:7 43:24 45:12 50:19 53:12 59:13 74:19 94:14 95:11 102:8 103:11 107:15 understood 96:3 undue 85:2 unfamiliar 50:15 unfortunately 53:21 unit 43:12 47:25 United 1:2 78:8 Unknown 83:14 upgrade 100:2,9 upgraded 120:18 upper 120:10 USA 14:15 usage 84:22 85:22 use 93:19 120:25 USGS 77:14 78:8 utility 71:19 95:4,5 U.S 12:23 V valve 105:4 118:12 118:16 valves 14:9 15:22 96:21 97:5,6,16 98:4 104:22,25 105:24 106:5 107:10 115:11 118:19,24 varied 29:8 various 32:2 77:20 80:21 81:9 83:22 116:6,12 ventilation 28:17 76:18 versus 6:5 Vertical 43:6 vessel 18:8 vibration 58:17 vicinity 82:15 Video 6:9 Videographer 4:24 6:2 49:8,11 85:11 85:14 143:14 videotape 85:9 videotaped 1:20 2:6 6:3 85:15 143:15 virtual 101:18 virtually 71:4 Vocational 18:19 voluntarily 91:14 vs 1:7 149:4 W WACHTELL 3:10 waived 5:5 want 15:14 23:22
---	---	--	---	---

30:11,19,21 88:12 90:22,24 97:3 wanted 33:7 78:24 88:16 90:13 103:16 wants 22:9 WARBURG 1:11 Washington 4:19 wasn't 61:23 110:16 watch 27:16,18 28:5,11 29:5,17 29:22 water 36:5 37:7,11 37:15,22,25 58:18 60:3 96:10 107:20 110:2,3,4,7 way 10:13,19 40:14 40:16 41:2,13 55:12 58:4 62:16 62:18 66:15 71:4 72:21 78:15 79:12 104:8,18 110:14 144:18 ways 54:20 weeks 9:23 welcome 67:3 WELLS 1:14 went 26:21 27:13 40:12 78:16 90:10 106:15 112:9,10 112:11 130:15 133:11,12,12 139:2 west 3:12 82:5 95:8 WESTFIELD 1:9 1:12,12,12 we'll 74:17 114:16 114:18 we're 7:14 21:16 44:23 47:12 49:9 49:12 60:15 85:8 130:6 136:15 139:13 we've 125:8 126:4 128:8 130:22 132:3 136:4 140:2 142:19 whatnot 77:22 WHEREOF 144:20 WHITE 4:23 Williams 4:16 6:23 91:7 wired 106:15 witness 6:13,15 36:22,25 49:5 83:14 91:2 114:14 114:21,24 133:10 133:16 136:17,23 139:13 143:9,11 144:10,14,20	145:3 149:5 Witter 101:13 Word 11:11 words 98:24 work 15:23 20:17 21:5 23:19 27:7 31:13,14 32:6 39:25 48:3,5,7 54:25 69:13 70:25 71:3 72:12,13 79:3 88:16 94:20 97:3,10 103:9,18 103:22 104:16 110:21 118:7 worked 20:19,22,24 24:12,18,25 31:25 54:8 72:7,11 98:11,13,17 working 15:6 17:7 19:8 25:6 26:19 31:18 66:22 67:5 71:6 Works 111:12,15 137:7 World 1:8,13,13,14 1:14 6:5 10:8 12:10 29:25 33:20 35:4,14,20 38:4 40:13,19 41:25 43:4,8 44:17,19 45:11,15,21 46:11 46:20 47:9,20 51:5 52:10 53:10 53:16 54:9 55:4 56:19 59:15 60:6 60:21 61:4,5,14 62:19 66:2,3,6 68:23 70:24 71:5 71:10 76:18 77:10 77:18 78:11 79:3 80:8 81:9 82:14 85:4 86:2 87:13 88:3,12 92:6 93:11,19 95:6,10 95:21 96:3,17 97:17 98:2,21 99:2,7,9,18 100:3 100:10 101:13 102:11,12,13,17 102:19,22 103:23 104:3,12,23 105:16 106:2,18 107:23 108:6 111:2,3,16 112:7 113:3,9 114:5 115:7,20 116:2 119:18 120:4 122:14,16,25 123:7,24 124:2 125:2 132:20	134:21,24 135:21 135:24 137:15 138:11 139:21 140:17 141:13,16 142:12,14 wouldn't 57:20 97:12 106:25 written 13:22 16:10 17:15 21:11 WTC 1:9,12 73:15 149:4 WTD 102:9 WTD's 102:3 <hr/> X <hr/> X 145:2 <hr/> Y <hr/> year 12:7 24:4,9 25:4 65:5 67:6 110:24 120:24 years 13:18,22 14:11 19:21,24 23:11,13 24:13 25:5,15 26:10,11 26:23 28:7 29:15 29:21 35:6 40:25 43:8 51:16,19,22 51:22 60:21 62:6 86:11,18 100:9 York 1:3,10,21,21 2:9,9,11 3:7,7,13 3:13,19,19 4:4,5,7 4:7,13,13 6:7 9:19 10:8 31:12 32:7,9 32:16,19,25 33:16 42:3 62:18 98:16 144:3,5,8 <hr/> Z <hr/> Z 38:24 zones 74:14 88:9,11 Zucchi 38:22,25 <hr/> 0 <hr/> 01 1:7 0483 122:5 0484 123:15 0485 124:17 06 145:4 0700 56:16 076953 70:8,10 145:24 076954 70:8 <hr/> 1 <hr/> 1 1:13 42:10 63:18 69:2 82:15 95:8 105:20 113:3 145:11	1:30 2:4 91:10 10 9:7 29:9 100:25 101:3 146:14 10010 4:7 10017-3954 3:7 10019-6092 3:19 10019-6150 3:13 10036-6522 4:13 101:3 146:16 108 89:7 108th 77:4 11 112:19 117:24 146:17 11th 12:7,11 30:18 44:8 46:4,5,15 96:18 98:22 99:3 99:18 106:23 107:2,9 120:4 123:7 124:7 125:13 110 128:9 133:22 111 101:2,5 146:15 112:19 146:18 114:10 146:20 115 9:19 10:10,23 119:5 146:22 12 114:10 118:12,22 118:24 146:19 120/208V 80:19 122:6 146:24 123:16 147:3 124:18 147:5 125:16 147:7 126:10 147:9 127:25 147:13 127:8 147:11 128:23 147:15 13 119:3,5 146:21 130:8 147:17 1301 3:18 131:14 147:19 1312 58:16 132:10 147:21 133:7 147:23 134:13 147:25 135:13 148:3 136:12 148:5 138:23 148:9 138:3 148:7 14 122:4,6 146:23 140:8 148:11 140488 1:25 141:4 148:13 142:3 148:15 143655 92:10,12 146:9 15 123:15,16 129:8 147:2 150454 55:17 151727 42:9,11	145:12 151729 43:11 151730 42:9,12 145:12 152670 79:15,17 146:3 152671 79:15 159454 55:19 145:21 16 108:19 124:17,18 147:4 162355 83:9,12 146:6 166104 101:2,4 146:15 166106 102:24 166507 93:24 94:2 146:12 166945 49:4,16,19 145:15 166954 49:22,24 145:18 166955 49:4 17 125:15,16 147:6 18 126:9,10 147:8 19 127:7,8 147:10 19th 94:12 95:13 1900 56:17 1970's 61:6 1971 13:9 24:6 1972 24:14 1974 25:2 1975 25:2 1976 25:16 1977 25:16 1979 13:16 24:5 1982 26:13 1983 17:3 19:2 20:16 26:12,13 1984 20:16 1986 27:2,14 1987 27:2,15 1990 28:8,22 1993 30:2,17 31:2,5 31:19 33:12,25 34:15 110:22 1995 61:9 1996 35:7,10 36:11 37:10 38:8,18 39:17 40:3,9 41:10 1999 41:8,10,14 63:23 65:24 <hr/> 2 <hr/> 2 1:13 10:8 49:18 50:6 58:10 63:18 65:2 66:23 68:6 68:16 69:2,8,25 73:15 74:8,19,21
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85:15 113:3 118:16 145:14 2nd 144:21 2:33 49:8 2:43 49:11 20 89:13 127:24,25 147:12 2000 23:6 2000-WTC 1:17 20005 4:19 2001 12:11 31:2 40:11 44:8 47:6 47:18 48:13 51:3 51:20 52:23 54:11 56:16 59:4 62:14 67:24 70:23 80:4 92:20 94:12 95:13 96:18 98:22 99:3 99:19 101:16 106:23 107:2 110:24 120:5,24 123:8 125:13 2002 1:21 2:3 46:18 143:23 144:21 149:4,23 21 128:22,23 147:14 22 130:7,8 147:16 23 131:13,14 147:18 24 51:24 52:2 57:6 62:13 132:9,10 147:20 24th 46:16,17,18 47:13,18,19 48:13 51:3,9,10,16,20 51:22,25 52:2,23 54:11,12 59:4 62:14 70:23 242 78:13 25 80:21 133:6,7 147:22 25th 82:16 92:20 26 134:12,13 147:24 27 135:12,13 148:2 27th 84:12 277/480V 80:19 28 136:11,12 148:4 28th 80:4 282 77:19 285 77:11,12,16 78:3,6 29 137:25 138:3 148:6 294 108:12,15,18 <hr/> 3 3 49:21,23 53:7 145:17 3:39 85:11 3:50 85:14 30 1:21 2:3 31:16	116:10,15,20 138:22,23 139:16 148:8 149:4 31 140:7,8 148:10 310 78:11 108:18 32 141:3,4 148:12 33 142:2,3 148:14 356 83:10,12 146:6 <hr/> 4 4 1:14 2:8 6:6 55:18 63:19 69:3 74:25 77:10 145:20 41 80:18 89:7 131:22 132:18 133:12,13 41st 77:3 81:7 126:18 42:10 145:13 425 3:6 43rd 82:24 44 83:4 455 55:17,19 145:21 480 112:18,20 146:18 481 114:9,11 146:20 482 119:4,6 146:22 483 122:7 146:24 484 123:17 147:3 485 124:19 147:5 486 125:15,17 147:7 487 126:9,11 147:9 488 127:7,9 147:11 489 127:24 128:2 147:13 49:18 145:16 49:23 145:19 490 128:22,24 147:15 491 130:7,9 147:17 492 132:9,11 147:21 493 131:13,15 133:6 133:8 147:19,23 495 134:12,14 147:25 496 135:12,14 148:3 497 138:2,4 139:2 148:7 498 136:11,13 139:2 148:5 499 138:22,24 139:2 148:9 <hr/> 5 5 1:14 63:19 69:3 70:9 77:18 101:13 145:23 5:00 90:12 5:07 143:14,17 500 140:7,9 148:11	501 141:3,5 148:13 502 142:2,4 148:15 51 3:12 52nd 3:12 55:18 145:22 58 80:21 58th 82:16 <hr/> 6 6 79:15,16 146:2 671 79:17 146:3 68 78:13 <hr/> 7 7 83:11 85:19 89:7 132:18 133:11,13 146:5 7th 4:6 24:8 56:16 77:2 125:23 126:17 130:17 7/8ths 97:11 70:9 145:25 725 4:18 74 24:16,23 75 24:16,23 89:7 128:9 131:22 133:12,22 75th 77:3 79:16 146:4 <hr/> 8 8 92:11 146:8 8th 24:8 801 43:13 801A6 43:13 83:11 146:7 88/Fire 50:13 <hr/> 9 9 93:25 95:8 146:11 9th 77:17,20 92:11 146:10 9291 1:7 93:25 146:13 946 49:17,19 145:15 954 70:10 145:24 955 49:22,24 145:18		
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1
2 UNITED STATES DISTRICT COURT
3 SOUTHERN DISTRICT OF NEW YORK
4

5 SR INTERNATIONAL BUSINESS)
6 INSURANCE CO., LTD.,)

7 Plaintiff,)

8 vs.)

No. 01 CV 9291
(JSM)

9 WORLD TRADE CENTER PROPERTIES)
10 LLC; SILVERSTEIN PROPERTIES INC.;)
11 SILVERSTEIN WTC MANAGEMENT CO.)
12 LLC; WESTFIELD, INC.,; THE PORT)
13 AUTHORITY OF NEW YORK AND NEW)
14 JERSEY; GMAC COMMERCIAL MORTGAGE)
15 CORPORATION; UBS WARBURG REAL)
16 ESTATE INVESTMENTS INC.;)
17 WESTFIELD WTC LLC; WESTFIELD)
18 CORPORATION, INC.; WESTFIELD)
19 AMERICA, INC.; 1 WORLD TRADE)
20 CENTER LLC; 2 WORLD TRADE CENTER)
21 LLC; 4 WORLD TRADE CENTER LLC; 5)
22 WORLD TRADE CENTER LLC; and WELLS)
23 FARGO BANK MINNESOTA, N.A. AS)
24 TRUSTEE FOR THE REGISTERED)
25 HOLDERS OF GMAC COMMERCIAL)
MORTGAGE SECURITIES, INC.,)
MORTGAGE-BACKED PASS-THROUGH)
CERTIFICATES, SERIES 2000-WTC,)

Defendants.)
-----)

20 CONTINUED CONFIDENTIAL VIDEOTAPED
21 DEPOSITION OF DENNIS MALOPOLSKI
22 New York, New York
23 Friday, October 18, 2002

24 Reported by:
25 JOYCE G. ABELES
JOB NO. 141128

CONFIDENTIAL

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October 18, 2002

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9:20 a.m.

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Continued confidential videotaped

7

deposition of DENNIS MALOPOLSKI, held at the

8

offices of Skadden Arps Slate Meagher &

9

Flom, 4 Times Square, New York, New York,

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pursuant to adjournment, before Joyce G.

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Abeles, a Notary Public of the State of New

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York.

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1

2 A P P E A R A N C E S : (Cont'd)

3

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5 JERSEY, NEW YORK LITIGATION DIVISION

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17 Attorneys for IRI

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21

22 ALSO PRESENT:

23 SILVIO FACCHIN, Videographer

24 RAJIV MONGIA, Exponent

25 JOHN RELIHAN, Port Authority

1

2 D E N N I S M A L O P O L S K I, resumed
3 as a witness, having been previously sworn
4 by a Notary Public, was examined and
5 testified further as follows:

6 EXAMINATION (Cont'd)

7 BY MS. GIFFIN:

8 THE VIDEOGRAPHER: This is the tape
9 labeled number one of volume II of the
10 videotaped deposition of Dennis Malopolski.
11 We're now going on the record. The time is
12 9:19 a.m.

13 Q. Good morning, Mr. Malopolski.

14 A. Good morning.

15 Q. Thank you for coming back. I'd like
16 to remind you as the court reporter just did
17 that you're still under oath.

18 I'd also like to remind you to please
19 answer my questions orally rather than nodding
20 or shaking your head so the court reporter can
21 get down our answers.

22 And let's remember not to speak over
23 each other so that the court reporter can get
24 down what I'm saying and what you're saying,
25 okay?

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2 A. Yes.

3 Q. Also again, if you don't understand a
4 question, please ask me to clarify or try to
5 communicate better so that you can answer the
6 question; otherwise I'll assume you understand
7 it, okay?

8 A. Okay.

9 Q. Did you prepare for the continuation
10 of your deposition today?

11 A. No.

12 Q. You never met with anyone?

13 A. No.

14 Q. Have you, either in preparation for
15 this deposition or the previous deposition, ever
16 met with lawyers from Wachtell, Lipton, Rosen &
17 Katz?

18 A. No.

19 Q. Did you review any documents to
20 prepare for the continuation of your deposition
21 today?

22 A. No.

23 Q. I'd just like to clarify something
24 that you talked about at your last deposition.
25 I believe you said that your current job

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2 responsibilities include oversight of the World
3 Trade Center site, is that correct?

4 A. That's correct.

5 Q. Can you just tell me at what point in
6 time your responsibilities began to include the
7 World Trade Center site?

8 A. Late July, I believe maybe the 22nd.
9 I'm not certain. I'd have to check my diary on
10 the date.

11 Q. Mr. Malopolski, as you may recall,
12 when we finished your deposition on September
13 30th, we had discussed a series of drawings. Do
14 you recall that?

15 A. Yes, I do.

16 Q. And you had testified that those
17 series of drawings were drawings you believe you
18 provided to John Hickey in connection with the
19 World Trade Center lease, do you remember that?

20 A. Yes, I do.

21 Q. And I believe you also testified that
22 you got those drawings out of a manual that was
23 kept by the Port Authority, is that correct?

24 A. A series of manuals, yes.

25 MS. GIFFIN: I'd like to introduce as

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2 the next exhibit in the series a document
3 Bates stamped PORT/SRI 194571 through
4 194818.

5 (Malopolski Exhibit 34, document
6 bearing Bates Nos. PORT/SRI 194571 through
7 194818, marked for identification, as of
8 this date.)

9 (Discussion off the record.)

10 Q. And let me know when you've had a
11 chance to review this exhibit.

12 MR. STICKELMAN: Do you want him to
13 review the entire document?

14 MS. GIFFIN: No.

15 Q. Just go through it and if I have
16 specific questions about a particular page, I'll
17 let you know.

18 A. Okay.

19 Q. Have you seen this document before,
20 sir?

21 A. Yes, I have.

22 Q. Can you tell me what it is, please?

23 A. It's one of the orange manuals as we
24 referred to, instructions of operations and
25 maintenance systems of the World Trade Center.

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2 Q. And this is for the fire protection
3 system, correct?

4 A. That's correct.

5 Q. And the name of this document is
6 "Instruction Manual 23," correct?

7 A. Correct.

8 Q. Is this one of the manuals you
9 referred to, one of the manuals that you got
10 information from to give to John Hickey?

11 A. Yes.

12 Q. The cover page of this document
13 states that it's a final edition, do you see
14 that?

15 A. Yes.

16 Q. Is this, in fact, the final edition
17 that was produced of this manual?

18 MR. STICKELMAN: If you know.

19 A. I don't know.

20 Q. This says at the top, it says
21 engineering department on the cover page, do you
22 see that?

23 A. Yes, I do.

24 Q. Is that meant to indicate that this
25 manual was produced by employees of the

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2 engineering department of the Port Authority?

3 A. That's correct. May -- let me
4 qualify that. Employees or contractors,
5 consultants.

6 Q. And those contractors would have
7 worked at the direction of the engineering
8 department of the Port Authority, correct?

9 A. That's correct.

10 Q. And the engineering department is the
11 department of the Port Authority that had
12 responsibility for the fire protection system at
13 the World Trade Center?

14 MR. REYNOLDS: At what point in time?

15 MS. GIFFIN: Prior to the lease.

16 A. No.

17 Q. No?

18 A. The engineering department would be
19 involved in designing and building the fire
20 protection system, modifications to it, you
21 know. They were kind of the people who would
22 conceive of the concept, research the documents
23 and codes, and make sure that it was all up to
24 snuff and produce the drawings, bid out the
25 contract, and follow the contractor as it was

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2 built.

3 Q. So those individuals would be
4 familiar with the fire protection system in the
5 course of their responsibilities for the Port
6 Authority, is that correct?

7 A. Yes.

8 MS. GIFFIN: I'd like to introduce
9 the next exhibit in sequence, a document
10 Bates stamped EXP 009808 through 010067.

11 (Malopolski Exhibit 35, document
12 bearing Bates Nos. EXP 009808 through
13 010067, marked for identification, as of
14 this date.)

15 (Discussion off the record.)

16 Q. If I can just go back for a minute.
17 I had asked you a question about the engineering
18 department and you had described their
19 responsibilities. And I can frame that question
20 in terms of the engineering department's
21 responsibilities prior to the lease?

22 A. Yes.

23 Q. Were those responsibilities, as you
24 described them, also the responsibilities of the
25 engineering department as of February 1986?

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2 MR. CHEUNG: Objection to form.

3 MR. STICKELMAN: Do you know?

4 A. I don't know. I would believe so.

5 Q. And remind me, were you with the Port
6 in 1986?

7 A. Yes.

8 Q. And what was your position at that
9 time?

10 A. Watch engineer, Newark Airport.

11 Q. Was that considered -- strike that.

12 Let me turn now to Exhibit 35. Have
13 you seen this document before?

14 A. Yes, I have.

15 Q. Can you tell me what it is, please?

16 A. It's an emergency procedures manual
17 for the World Trade Center.

18 Q. And in what connection did you become
19 familiar with this document?

20 A. This document was issued to, I guess
21 all the people in my office, a majority of the
22 people in the World Trade Department, with
23 procedures to be followed in the event of
24 different emergencies, different disturbances.

25 Q. Who created this document?

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2 A. I don't know.

3 Q. At what point in time did you first
4 see this document?

5 A. When I started at the World Trade
6 Center.

7 Q. Which was in 1993?

8 A. 1993, correct.

9 Q. This document is dated 2001 on the
10 front cover, do you see that?

11 A. Yes, I do.

12 Q. Was this document created in 2001?

13 A. The document was updated every year.

14 Q. Were you involved in updating this
15 document?

16 A. Yes.

17 Q. In what capacity?

18 A. I would be assigned several sections
19 to review and make modifications as necessary.

20 Q. Which sections?

21 A. It was assigned by my manager. It
22 would be different all the time. Most likely,
23 there would be, in my concentration, cooling
24 water failure, refrigeration plant upset, steam
25 outage, that type of thing, large mechanical

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2 systems.

3 Q. In 2001, were you involved in
4 updating this document?

5 A. No.

6 Q. Why not?

7 A. At that time, I was assigned to the
8 construction project management division and
9 that was not part of the duties at that time.

10 Q. Did you review this document in 2001
11 after it was updated?

12 A. No.

13 Q. Can I turn your attention please to
14 page 010030. It's 010030.

15 A. Okay.

16 Q. Do you have that?

17 A. Yes, I do.

18 Q. At the top of this page, it says,
19 "The following manuals are present in the
20 situation room." Do you see that, sir?

21 A. Yes.

22 Q. What is the situation room?

23 A. The situation room was a part of the
24 operations control center on the B1 level where
25 emergencies would be controlled.

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2 Q. There was only one situation room?

3 A. Yes.

4 Q. And the operations control center is
5 also known as the OCC, is that correct -- was
6 also known?

7 A. That's correct. Those are the first
8 letters of each word.

9 Q. Toward the bottom of this page --
10 well, this page is a list of manuals that are
11 present in the situation room, correct?

12 A. Yes.

13 Q. And toward the bottom of the page,
14 there's a reference to manual 23, fire
15 protection systems, do you see that?

16 A. Yes, I do.

17 Q. Is this meant to indicate that
18 Exhibit 23 -- excuse me, manual 23 was present
19 in the operations control center at all times?

20 A. That's correct.

21 Q. And the date on this document is
22 February 1986?

23 A. Correct. It says original
24 publication date February 1986, which is the
25 last exhibit we just looked at has a publication

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2 date of February 1986.

3 Q. Does looking at this document assist
4 you in determining whether or not Exhibit 34 was
5 the final version of Instruction Manual 23?

6 A. That was -- Exhibit 34 is the
7 previous exhibit?

8 Q. Correct.

9 A. I would assume so.

10 Q. Because you wouldn't keep an outdated
11 version of that manual in the operations control
12 center, correct?

13 A. Correct.

14 Q. Why did these -- why did the Port
15 Authority keep these manuals at the operations
16 control center?

17 MR. STICKELMAN: If you know.

18 A. For reference purposes.

19 Q. In what situations would people refer
20 to these manuals?

21 A. Whenever there was an emergency or an
22 upset.

23 Q. And in the course of an emergency or
24 an upset, Port Authority employees at the
25 operations control center would rely on the

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2 information in these manuals, is that correct?

3 MR. STICKELMAN: At what point in
4 time?

5 MR. CHEUNG: Objection.

6 MS. GIFFIN: Prior to the lease.

7 MR. CHEUNG: Objection to the form.

8 A. I'd say they would refer to them, I
9 don't know if they would rely on them. It's
10 like an encyclopedia, a reference manual. You
11 might know something about George Washington,
12 but you might want to look up the detail. So
13 these were reference documents.

14 Q. The information in these reference
15 documents was meant to be accurate, correct?

16 MR. CHEUNG: Objection to form.

17 A. I believe they -- yes, I believe so.

18 Q. Because it would be important that,
19 to the extent that Port Authority employees
20 relied on these documents, the information in
21 them -- or rather to the extent that Port
22 Authority employees referred to them, the
23 information would be accurate, correct?

24 A. Yes.

25 Q. Do you know if these documents were

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2 kept at the OCC after the lease?

3 A. I would assume so. I was not in that
4 area following the lease so I couldn't really
5 address that.

6 MS. GIFFIN: I'd like to introduce as
7 the next document in the series PORT/SRI
8 208699 through PORT/SRI 208805.

9 (Malopolski Exhibit 36, document
10 bearing Bates Nos. PORT/SRI 208699 through
11 208805, marked for identification, as of
12 this date.)

13 Q. Have you had a chance to look at
14 that?

15 A. Yes.

16 Q. Have you seen this document before,
17 sir?

18 A. Yes.

19 Q. What is it?

20 A. It's an operation and maintenance
21 manual for the fire standpipe system at the
22 World Trade Center.

23 Q. And at what point in time did you
24 become familiar with this document?

25 A. I saw it as soon as I came on board

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2 at the World Trade Center.

3 Q. In 1993?

4 A. Yes.

5 Q. Do you know who created this
6 document?

7 A. I would assume it was the engineering
8 department since it says that right on the
9 front.

10 Q. And again, Port Authority employees
11 in the engineering department would have had
12 familiarity with the fire standpipe system in
13 the course of their job responsibilities, is
14 that correct?

15 A. Yes.

16 Q. And for the record, this document is
17 titled "World Trade Center Instruction Manual
18 No. 19, Operation and Maintenance of Fire
19 Standpipe Systems," is that correct?

20 A. That's correct.

21 Q. And it is dated June 1986, correct?

22 A. Correct.

23 Q. Do you know if this is the final
24 version of this document?

25 A. I see in the center of the page it

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2 says second review. And someone has written
3 "keep" on it, so I'm not quite certain where it
4 is in the hierarchy of updated manuals.

5 Q. Do you know what second review means?

6 A. No.

7 Q. Do you know whose handwriting that
8 is?

9 A. No.

10 Q. Can I refer you again to Exhibit 35,
11 page 100030, same page we were looking at
12 before. I believe on this page, it also
13 indicates that Instruction Manual No. 19, Fire
14 Standpipe System was kept in the situation room,
15 do you see that?

16 A. Yes, I do.

17 Q. Do you believe that that, referring
18 to Instruction Manual No. 19, Fire Standpipe
19 System, is a reference to Exhibit 36?

20 A. It could be.

21 Q. Is there any reason to think it's
22 not?

23 A. No. But unlike the other
24 publications, it doesn't have a date to the
25 right-hand side. See? Most of them say

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2 original publication and have a date. This one
3 does not.

4 Q. The information that you provided to
5 Mr. Hickey that we talked about at your last
6 deposition --

7 A. Yes.

8 Q. -- did you gather any of that
9 information from Instruction Manual 19?

10 A. I may have. I gave John a lot of
11 documents and I can't really say specifically
12 whether this one was or was not included in
13 that. I gave him a huge volume of documents. I
14 was instructed to give him everything he asked
15 for and he asked for a lot.

16 Q. Did you give him everything he asked
17 for?

18 A. Yes, I did.

19 Q. Are you familiar with the term fire
20 command center?

21 A. Yes.

22 Q. What is that?

23 A. There was a control desk in the lobby
24 of 1, 2, 4 and 5 World Trade Centers, called the
25 fire command desk for each one of those

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2 properties.

3 Q. And fire command desk or fire command
4 center, do you know?

5 A. I guess either term would be
6 interchangeable.

7 Q. And what was the purpose of that fire
8 command center, if I can refer to it just that
9 way to be consistent?

10 A. That was staffed 24 hours a day by
11 people monitoring the alarm systems and the
12 elevator systems in the building.

13 Q. Do you know if these three manuals,
14 Exhibits 34, 35 and 36, were kept at the fire
15 command center?

16 MR. CHEUNG: Objection to form.

17 A. I don't know.

18 Q. Did the fire command center have any
19 specific responsibilities in case of a fire or
20 other emergency at the World Trade Center?

21 A. Yes.

22 Q. And what were those responsibilities?

23 A. I don't specifically know what their
24 duties were because they were not in my world,
25 but I do know that they would, you know, give

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2 information to the fire department when they
3 showed up, make announcements, pretty much be
4 there to assist the fire department when they
5 showed up.

6 Q. So in the case of a fire or other
7 emergency, the fire department would go to the
8 fire command center?

9 A. That's correct.

10 Q. That's the first place they would go?

11 A. Yes.

12 MS. GIFFIN: Off the record.

13 (Discussion off the record.)

14 MS. GIFFIN: Let's do the next
15 document in the series, a document Bates
16 stamped PORT/SRI 203758.

17 (Malopolski Exhibit 37, document
18 bearing Bates No. PORT/SRI 203758, marked
19 for identification, as of this date.)

20 Q. Have you seen this document before,
21 sir?

22 A. Yes.

23 Q. What is it?

24 A. It's a map of the World Trade Center
25 mall concourse level, level sprinkler zones.

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2 Q. Who created this?

3 A. I did.

4 Q. Is this the document that you
5 referred to in your prior deposition when you
6 were discussing a drawing you had made of the
7 sprinkler system at the World Trade Center?

8 A. It is one of a series, yes.

9 MS. GIFFIN: I'll introduce the next
10 document in series, exhibit in series, a
11 document Bates stamped PORT/SRI 203760.

12 (Malopolski Exhibit 38, document
13 bearing Bates No. PORT/SRI 203760, marked
14 for identification, as of this date.)

15 Q. Have you seen this document before,
16 sir?

17 A. Yes.

18 Q. What is it?

19 A. It's the World Trade Center mall
20 concourse level, sprinkler zone control map. It
21 looks a lot like the other one, but the only
22 difference is that the legend is smaller and one
23 legend is moved to the other side.

24 It's an exact copy of the one we just
25 looked at, only it's been juxtaposed.

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2 Q. Did you create this document?

3 A. Not the way it looks, but yes. It's
4 been altered.

5 Q. Do you know who altered it?

6 A. No.

7 Q. But I'm understanding you correctly
8 that the information contained on these two
9 documents is exactly the same except that it is
10 in a slightly different format?

11 A. It appears to be, but the legend is
12 so small that I can't read it.

13 Q. I happen to have a magnifying glass
14 to help you here today.

15 (Discussion off the record.)

16 A. It looks to be identical.

17 Q. Thank you.

18 A. You're welcome.

19 Q. How did you go about creating --
20 well, strike that.

21 For purposes of reference, let's
22 refer to Exhibit 37 since, as I understand what
23 you're saying, the information is
24 interchangeable. If at any point, you think
25 that there's -- I've asked a question that would

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2 be different from one of these exhibits, please
3 let me know.

4 How did you go about creating Exhibit
5 37?

6 A. Researching the documents, existing
7 documents and drawings, and a field survey to
8 verify conditions. I had a consultant who was a
9 mechanical engineer, plumbing engineer,
10 accompany us and do hand drawings on the
11 existing drawings, and then go back and do a
12 CAD rendering of what we had discovered.

13 Q. Let me go down and ask you a few
14 questions about all that information you just
15 gave me. You said researching the documents,
16 what documents did you research?

17 A. Base building drawings.

18 Q. And where did those documents come
19 from?

20 A. We have them on file in our office.

21 Q. Any other documents you looked at to
22 create this document?

23 A. May have looked at the orange
24 manuals.

25 Q. Do you remember which of those

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2 manuals you would have looked at?

3 A. The ones specific to the point of
4 endeavor, because we did the sprinkler and
5 standpipe so I think those were separate
6 manuals. So we would have referred to each one,
7 if in fact we did. I'm not quite certain if we
8 did or not.

9 Q. Any other documents you would have
10 looked at in creating this document?

11 A. No.

12 Q. You said you did a field survey to
13 verify the conditions?

14 A. Yes.

15 Q. Can you describe for me what a field
16 survey is?

17 A. Actually get out and walk around and
18 climb inside ceilings and up ladders and around
19 in different spaces to actually verify the
20 location of valves and piping.

21 Q. Did you do that personally?

22 A. Yes.

23 Q. You said you had a consultant who was
24 a mechanical engineer and plumbing engineer
25 accompany you?

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2 A. Yes.

3 Q. On those field surveys?

4 A. That's correct.

5 Q. And you mentioned hand drawings on
6 existing drawings. Who made hand drawings on
7 existing drawings?

8 A. The consultant.

9 Q. Did they do that at your direction?

10 A. Do you mean at each point or prior to
11 the endeavor beginning?

12 Q. Well, both. But let's start it prior
13 to the endeavor beginning?

14 A. He was assigned by his management to
15 come with myself and another person, to go out
16 in the field and to prepare, you know, a drawing
17 to be produced. So yes.

18 Q. I'm sorry, he is who?

19 A. The consultant.

20 Q. Which consultant?

21 A. That would be Meyer Strong Jones.

22 Q. And was that the mechanical engineer
23 or the plumbing engineer?

24 A. Both.

25 Q. So am I understanding you correctly

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2 that there were drawings, existing drawings that
3 you had with you while you were doing the field
4 surveys?

5 A. Yes.

6 Q. Did each of your consultants have a
7 set of drawings as you were doing the field
8 survey?

9 A. Yes.

10 Q. Did you also have a set of drawings?

11 A. No.

12 Q. Just your consultant?

13 A. Right. I gave him the drawings, so I
14 didn't physically carry drawings around. It was
15 a lot easier; I was carrying flashlights and
16 keys and he was carrying the drawings. So there
17 was no need for another set.

18 Q. Two sets of drawings, correct?

19 A. Just one set. Just one set. We
20 would go out, like a search party, and there
21 would be three or four of us, and follow these
22 lines through the ceilings, one guy with a big
23 board with the drawing and other guys with
24 flashlights and keys and stuff, and we would go
25 out as a team.

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2 Q. So your consultants were making marks
3 on the drawing as you were checking the systems,
4 is that correct?

5 A. That's correct.

6 Q. During your field survey, did you
7 trace the entire sprinkler loop on the concourse
8 level to make Exhibit 37?

9 A. Yes.

10 Q. So you physically went and looked at
11 all of the sprinkler control valves on the mall
12 concourse level?

13 A. Yes.

14 Q. With your consultant?

15 A. Yes.

16 Q. Making these drawings?

17 A. Yes.

18 Q. And based on those marks on the
19 drawings made by your consultant, you created
20 Exhibit 37?

21 A. He created Exhibit 37.

22 Q. Thank you. And you reviewed it after
23 he was finished?

24 A. Yes.

25 Q. Did you make any corrections after he

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2 was finished?

3 A. Made modifications as we went along
4 as far as, you know, maybe he got the name of a
5 store wrong or some stuff like that. Or maybe
6 in the interim a store might have changed hands,
7 and so we updated it as best we could. It was a
8 dynamic time; there was a lot of change on the
9 mall, a lot of new retail tenants.

10 Q. When was this created?

11 A. I really don't have a date for you.
12 But it was in the period just prior to the lease
13 agreement.

14 Q. So 2001, correct?

15 A. Yes.

16 MR. CHEUNG: Objection to form.

17 A. Yes, maybe 2000, 2001. I imagine we
18 could get a better date from Meyer Strong Jones
19 because they have records of, you know, the
20 billing for that gentleman's services.

21 Q. Do you have any recollection of what
22 month or what season?

23 A. I'm sorry, I don't.

24 Q. When this document was completed,
25 were you satisfied that it was an accurate

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2 representation of the sprinkler control valves
3 on the mall concourse level?

4 A. Yes.

5 Q. As of the time of its creation?

6 A. Yes.

7 Q. To your knowledge, would this
8 information have been accurate as of September
9 11th, 2001?

10 A. Yes.

11 MS. GIFFIN: Let's do the next
12 document which is PORT/SRI 203763.

13 (Malopolski Exhibit 39, document
14 bearing Bates No. PORT/SRI 203763, marked
15 for identification, as of this date.)

16 Q. Have you seen this document before,
17 Mr. Malopolski?

18 A. Yes.

19 Q. What is it?

20 A. It's the World Trade Center mall
21 concourse level, fire standpipe control valve
22 plan.

23 Q. Who created this document?

24 A. I did.

25 Q. When?

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2 A. At the same time as the previous
3 document.

4 Q. Did you undergo a similar process in
5 creating this document as you described when
6 creating Exhibit 37?

7 A. It was simultaneous. We created
8 about I guess six or seven documents, all with
9 the same information.

10 Q. And at the time this document was
11 created, were you satisfied with the accuracy of
12 the information represented here?

13 A. Yes.

14 Q. As of September 11th, would this
15 information have been accurate?

16 A. Yes.

17 MS. GIFFIN: Let's do the next
18 exhibit, PORT/SRI 203762.

19 (Malopolski Exhibit 40, document
20 bearing Bates No. PORT/SRI 203762, marked
21 for identification, as of this date.)

22 Q. Have you seen this document before,
23 sir?

24 A. Yes.

25 Q. What is it?

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2 A. It's the World Trade Center mall
3 concourse level, fire protection control valve
4 plan.

5 Q. Who created this?

6 A. I did.

7 Q. When did you do that?

8 A. Simultaneously with the previous.

9 Q. Undergoing the same process you've
10 already described?

11 A. It was all at once. All these
12 documents were created from the same field work.

13 Q. And at the time this document was
14 created, were you satisfied with the accuracy of
15 the information represented here?

16 A. Yes.

17 Q. As of September 11th, 2001 would this
18 information have been accurate?

19 A. Yes.

20 MS. GIFFIN: Next exhibit is PORT/SRI
21 203761.

22 (Malopolski Exhibit 41, document
23 bearing Bates No. PORT/SRI 203761, marked
24 for identification, as of this date.)

25 Q. Have you seen this document before?

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2 A. It looks like the one we just looked
3 at.

4 Q. Do you believe Exhibits 40 and 41 are
5 identical?

6 A. They appear to be.

7 Q. This is also a document -- strike
8 that.

9 So this document is a document you
10 created?

11 A. Yes.

12 Q. That is Exhibit 41 --

13 A. Yes, they're identical.

14 Q. So everything you testified to about
15 Exhibit 40 would apply to Exhibit 41 as well?

16 A. Yes.

17 MS. GIFFIN: Let's do the next
18 document, PORT/SRI 203759.

19 (Malopolski Exhibit 42, document
20 bearing Bates No. PORT/SRI 203759, marked
21 for identification, as of this date.)

22 Q. I apologize, I appear to have marked
23 these a little bit out of order. Have you seen
24 this document before?

25 A. Yes.

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2 Q. What is it?

3 A. It's the World Trade Center mall
4 concourse level, fire protection control valve
5 signage plan.

6 Q. What does that mean, signage plan?

7 A. These would be signs that would
8 identify the location of the sprinkler and
9 standpipe control valves.

10 Q. Signs that would be placed at
11 locations indicated on this drawing, is that
12 correct?

13 A. Yes.

14 Q. Who created this document?

15 A. Meyer Strong Jones.

16 Q. Was this created in connection with
17 the process we've been discussing?

18 A. Yes.

19 Q. Did you review this document at the
20 time it was created?

21 A. Yes.

22 Q. Were you satisfied that the
23 information contained in this document was
24 accurate?

25 A. Yes.

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2 Q. Would this information have been
3 accurate as of September 11th, 2001?

4 A. Yes.

5 MS. GIFFIN: Now we have PORT/SRI
6 203757.

7 (Malopolski Exhibit 43, document
8 bearing Bates No. PORT/SRI 203757, marked
9 for identification, as of this date.)

10 Q. Have you seen this document before,
11 sir?

12 A. Yes.

13 Q. What is it?

14 A. World Trade Center mall concourse
15 level, sprinkler control valve plan.

16 Q. Who created this document?

17 A. I did.

18 Q. Did you do that in connection with
19 the field survey, document research and other
20 information gathering that we've discussed with
21 the previous exhibits?

22 A. Yes.

23 Q. Were you satisfied that the
24 information contained in this document was
25 accurate as of the time it was created?

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2 A. Yes.

3 Q. Would this information have been
4 accurate as of September 11th, 2001?

5 A. Yes.

6 Q. Talking about all of these drawings,
7 from Exhibit 37 through Exhibit 43 for a moment,
8 why did you undertake to create these documents?

9 A. I was directed by my management to do
10 that.

11 Q. Were you told why?

12 A. To, for the lease, in preparation for
13 the lease deal.

14 Q. Had there been previous documents
15 that indicated this kind of information?

16 A. Yes.

17 Q. Given that there were previous
18 documents that had this kind of information in
19 it, were you told why you needed to create new
20 documents?

21 A. It was an update.

22 Q. In order to make sure that all of the
23 information contained in this was the most
24 up-to-date information, correct?

25 A. Yes.

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2 Q. Once you created these documents, did
3 you give them to anyone?

4 A. Yes.

5 Q. To whom did you give them?

6 A. My manager.

7 Q. And who was that?

8 A. Frank DeMartini.

9 Q. And do you know what Mr. DeMartini
10 did with these documents?

11 A. I know what he did with some of them,
12 yes.

13 Q. Can you tell me, please?

14 A. He distributed them to the people who
15 needed to have them.

16 Q. For example?

17 A. I know they were posted at the fire
18 command desk. I know that they were given to
19 the current building management at that time.
20 And I believe they were probably given to
21 Mr. Silverstein's people.

22 Q. Were they also kept at the operations
23 control center?

24 A. I don't know for sure, but I would
25 assume they were.

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2 Q. Now, I don't believe I see in this
3 group of documents from Exhibit 37 through
4 Exhibit 43 a drawing for the B1 fire standpipes.
5 Can you look at these documents and see, verify
6 that I'm correct?

7 MR. STICKELMAN: I believe he
8 testified that this is all the concourse
9 level.

10 THE WITNESS: Right. This is only for
11 the public space, only for the mall, the
12 retail area.

13 Q. You were not directed -- were you
14 asked to do a similar survey for the B1 level?

15 A. No.

16 Q. Do you know why you were directed to
17 do a survey like this for the concourse but not
18 the B1 level?

19 A. No.

20 Q. So you didn't gather any similar
21 information on the fire standpipes or the
22 sprinklers for the B1 level at the time you did
23 this?

24 A. That's correct.

25 Q. Or any time thereafter?

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2 A. That's correct.

3 Q. If I could refer you to Exhibit 39,
4 do you know if, as of September 2001, the fire
5 standpipe control valve plan represented on this
6 exhibit, the fire standpipe control valve system
7 complied with New York code?

8 MR. STICKELMAN: Objection to form.
9 You can answer.

10 A. I don't know.

11 Q. Do you know if the fire standpipe
12 valves represented on this drawing each had
13 their own -- sorry, strike that.

14 Are you aware of whether each fire
15 standpipe riser represented on this drawing had
16 its own control valve?

17 MR. STICKELMAN: Objection to form.

18 MR. CHEUNG: Objection to form.

19 A. I don't understand the question.

20 Q. Do you know what fire standpipe riser
21 is?

22 A. Yes.

23 Q. Can you describe that for me, please?

24 A. Those would be lines that go up from
25 this loop.

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2 Q. What I'm trying to determine is
3 whether each of those risers had its own control
4 valve?

5 A. I don't know.

6 Q. Would that information be contained
7 on this drawing?

8 A. I don't know. I would have to get a
9 better look at it. This drawing is way too
10 small. We could perhaps discover that if we saw
11 a full-sized drawing.

12 Q. When you did the survey to create
13 this document, were you looking for those, those
14 kinds of valves?

15 A. No. The concentration was for the
16 mall level only.

17 MS. GIFFIN: I'd like to introduce as
18 the next exhibit in series a document that
19 does not have a Bates stamp on it, but I'm
20 informed that the Bates stamp is PORT/SRI
21 141147.

22 (Malopolski Exhibit 44, document
23 bearing Bates No. PORT/SRI 141147, marked
24 for identification, as of this date.)

25 Q. Have you seen this document before,

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2 sir?

3 A. I may have.

4 Q. Can you tell me what it is, please?

5 A. It looks like --

6 MR. STICKELMAN: Do you know what it
7 is?

8 A. It looks like one of the base building
9 drawings. It's labeled in a manner that would
10 lead me to believe that, from my experience at
11 looking at base building drawings.

12 Q. In the lower right-hand corner, I see
13 what appears to be a date, November 15th, 1973,
14 do you see that?

15 A. Yes, I do.

16 Q. Is that meant to indicate that this
17 drawing was created on November 15th, 1973?

18 MR. STICKELMAN: Don't speculate,
19 only if you know.

20 A. I don't know.

21 Q. Do these kinds of drawings, in your
22 experience, usually have dates on them?

23 A. Yes.

24 Q. Are those dates usually located in
25 the lower right-hand corner?

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2 A. They could be located anywhere.

3 That's what's called a title block. A title
4 block could be in any one of the four corners.

5 Q. And does the title block date usually
6 indicate the date on which the drawing was
7 created?

8 A. Yes.

9 Q. The title block also states,
10 "Schematic Plan of Sectionalizing Valve on FSP
11 Loop," do you see that?

12 A. Yes.

13 MR. STICKELMAN: The complete title
14 is "Southeast Plaza Building Concourse."

15 THE WITNESS: 310 level, 310.

16 Q. Thank you. Is this document meant to
17 represent the same kind of information that's
18 included on Exhibit 39? Do you have Exhibit 39
19 in front of you?

20 A. Yes.

21 MR. CHEUNG: Objection to form.

22 Q. But Exhibit 39 is a more up-to-date
23 version, correct?

24 A. It's an updated version, yes.

25 Q. Exhibit 39 again is the document you

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2 created to be the most up-to-date version of
3 this kind of information, correct?

4 A. Yes.

5 MS. GIFFIN: I'll introduce the next
6 document, which is a document Bates stamped
7 PORT/SRI 141148.

8 (Malopolski Exhibit 45, document
9 bearing Bates No. PORT/SRI 141148, marked
10 for identification, as of this date.)

11 Q. Have you seen this document before,
12 sir?

13 A. I very well may have.

14 Q. Can you tell me what it is?

15 A. It looks like a base building
16 drawing.

17 Q. And what is the drawing of, if you
18 can tell?

19 A. The title is "Southeast Plaza
20 Building, 290 to 294 Level, Schematic Plan of
21 Sectionalizing Valves on FSP Loop."

22 Q. And can you tell us the date of this
23 document?

24 A. 11/15/73.

25 Q. And again, that date is most likely

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2 meant to indicate the date on which this
3 document was created, correct?

4 MR. STICKELMAN: Objection to form.

5 A. That would be my assumption.

6 Q. If I could refer you to Exhibit 39,
7 and I'm also going to have you look at Exhibit
8 15 from your last deposition.

9 MS. GIFFIN: Sorry, I should have
10 given you some warning.

11 (Discussion off the record.)

12 MR. CHEUNG: Do you know if that
13 figure is in -- represented in Exhibit 15 is
14 in Malopolski Exhibit 34?

15 MS. GIFFIN: That's actually the
16 question I was going to ask.

17 MR. CHEUNG: I'm just trying to follow
18 along.

19 MS. GIFFIN: We'll get there
20 eventually. For reference, it's AIW 484 and
21 it's labeled Figure 10.2.

22 Q. Now, let's start with Exhibit 39.

23 MR. STICKELMAN: So you want him to
24 have 39, 15? What about 45?

25 MS. GIFFIN: Wait a moment. Exhibit

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2 39, 44, right?

3 MR. CHEUNG: 45?

4 MS. GIFFIN: 44 and 15.

5 Q. Do you have those three drawings? And
6 I offer you my magnifying glass again, sorry.
7 Starting with Exhibit 39, okay?

8 I would like to direct your attention
9 to the right-hand side of the actual drawing.
10 Toward the bottom, there are two stores there
11 that appear to be named Innovation and Hallmark,
12 do you see that?

13 A. Yes.

14 Q. Next to the Innovation store, there's
15 a small circle around the number 14, do you see
16 that?

17 A. Yes.

18 Q. What is that meant to represent?

19 A. If we go to the key -- to tell you
20 the truth, I don't know, okay?

21 If we go to the fire standpipe
22 control valve chart, valve number 14 is located
23 in the service corridor, so 14 is the -- do you
24 see the little, from the legend, the drawing for
25 a valve? And 14 is the tag that identifies

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2 which valve it is.

3 Q. So this is the sectionalizing valve
4 at this location, is that correct?

5 A. Yes, that's what the legend, the
6 chart says. It says, "Function, section valve."

7 Q. Okay. If you could look at Exhibit
8 15, and again towards, on the right-hand side,
9 toward the bottom, there's a reference to FSP
10 16, do you see that?

11 A. Yes.

12 Q. Is this meant to represent the same
13 valve?

14 A. Yes.

15 Q. Okay. And if you could refer to
16 Exhibit 44, please. Are you able to locate on
17 Exhibit 44 the location we've been discussing in
18 Exhibit 39 and Exhibit 15?

19 A. No, I can't.

20 Q. When you say you can't identify the
21 location -- I'm sorry. When you answered my
22 last question, are you saying you can't find the
23 same location or you can't find the same valve?

24 A. I can't make any sense of this
25 drawing. It's a very bad rendering. I'm used

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2 to looking at full-sized drawings, at least 24
3 by 36. This drawing is much too complicated for
4 this reproduction. It's a bad copy.

5 Q. Okay. But just to verify your
6 previous testimony, you would expect, based on
7 the surveys and information you gathered to
8 create Exhibit 39, that the sectionalizing valve
9 at location 14 actually existed, that there was
10 a sectionalizing valve there, correct?

11 A. Correct.

12 Q. I'd like to, still on Exhibit 39, if
13 I could now direct your attention to a little
14 lower down, below the section we'd been
15 discussing before. There is an area that says,
16 "Under Constr.," which I believe is meant to
17 indicate under construction?

18 A. That's correct.

19 Q. There is a sectionalizing valve, I
20 believe, on that line represented by number 17,
21 correct? Sorry, a sectionalizing valve that
22 runs off that line?

23 MR. STICKELMAN: Objection to the
24 form.

25 A. No.

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2 Q. I'm sorry, what is 17 meant to
3 indicate?

4 A. 17 in the legend is labeled as a
5 Siamese control valve.

6 Q. There are no sectionalizing valves on
7 that line, is that correct?

8 MR. STICKELMAN: Objection to form.

9 A. I don't see any.

10 Q. And if I could refer you to Exhibit
11 15, if you could -- if I could direct your
12 attention to the line that has, I believe, an 8
13 just above it, can you tell me if that's the
14 same location as we've just discussed on Exhibit
15 39?

16 MR. STICKELMAN: I'm just going to
17 make sure if he's looking at the right
18 place. Are you talking about right there?

19 MS. GIFFIN: Correct.

20 MR. STICKELMAN: Can you tell?

21 A. You're talking about the one that has
22 an arrow that says FSP 25?

23 Q. I'm talking about the line that runs
24 perpendicular underneath that line.

25 A. And?

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2 Q. Is that the same location as we've
3 just discussed on Exhibit 39?

4 A. It appears to be.

5 Q. And again, there's no sectionalizing
6 valve represented on that line in Exhibit 15,
7 correct?

8 A. That's correct.

9 Q. So based on the information contained
10 in Exhibit 39, which you've testified was
11 created by you to be the most up-to-date
12 information, and reflected similarly on Exhibit
13 15, you would expect that there would have been
14 no sectionalizing valve at that location on
15 September 11th, 2001, correct?

16 A. That's correct.

17 Q. Now, if I could have you look at
18 Exhibit 44 again, and ask you whether or not you
19 are able to locate the same location we've been
20 discussing?

21 A. Here and now, no.

22 MR. CHEUNG: Objection. I'm just
23 going to interpose an objection to form.

24 MR. STICKELMAN: Are you done with all
25 of these, for now?

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2 MS. GIFFIN: Give me a second.

3 Q. I'd like to have you look at Exhibit
4 15 and Exhibit 34.

5 MR. STICKELMAN: What page on Exhibit
6 34?

7 MS. GIFFIN: Page 194740.

8 Q. Can you tell me if page 194740 is
9 identical to Exhibit 15?

10 A. It appears to be.

11 Q. Is it your opinion that that's
12 because the information contained in, that
13 Exhibit 15 is the information you gave to John
14 Hickey from Exhibit 34?

15 MR. STICKELMAN: Objection to the
16 form.

17 A. I don't know that.

18 Q. You testified previously that you
19 believed you gave Exhibit 15 to John Hickey, do
20 you recall that?

21 A. Yes.

22 MR. STICKELMAN: Objection. I
23 believe that mischaracterizes the prior
24 testimony.

25 A. I guess I did. I'm not quite certain.

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2 MR. STICKELMAN: I believe he
3 testified he's not sure what he actually
4 gave him. He gave him a lot of documents.

5 Q. Right. I believe when we discussed
6 this on September 30th, you indicated that you
7 probably gave that to John Hickey, but we'll let
8 the prior testimony speak for itself.

9 If you did give this information to
10 John Hickey, would you have gotten it from
11 Exhibit 34?

12 A. Is this 34? Yes.

13 MR. CHEUNG: When you say this
14 information, you're talking about this
15 chart?

16 MS. GIFFIN: I'm talking about Exhibit
17 15 and this page.

18 Q. I'd like to have you look at Exhibit
19 16 from your previous testimony.

20 MR. STICKELMAN: It's 10.3, AIW 0485.

21 Q. And I'd like to refer you to Exhibit
22 34, page 194741.

23 A. Yes.

24 Q. Can you tell me if Exhibit 16 is
25 identical to page 194741?

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2 A. It looks like an enlargement of the
3 same page.

4 Q. And assuming you gave Exhibit 16 to
5 John Hickey, would you have gotten that
6 information from page 194741 in Exhibit 34?

7 MR. STICKELMAN: Objection to form.

8 You can answer.

9 A. Yes.

10 THE WITNESS: Is it a good time to
11 break now?

12 MS. GIFFIN: I'd like to get through
13 the questions on this exhibit and then we
14 can break, unless you --

15 THE WITNESS: Okay, that's fine.

16 Q. If I can draw your attention to
17 Exhibit 16, in the lower right-hand corner,
18 there's a line that again appears to have an 8
19 above it. Do you see the line I'm referring to?

20 A. There are a lot of lines and a lot of
21 8's.

22 Q. It also has FSP 10 and then further
23 along the same line, FSP 9.

24 A. Okay. Yes, I see that.

25 Q. Can you tell me what FSP 10 and FSP 9

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2 is meant to refer to?

3 A. Fire standpipe 10 and fire standpipe
4 valve number 9.

5 Q. Are those both sectionalizing valves?

6 A. Yes.

7 Q. Are you familiar with those valves?

8 A. I don't understand the question.

9 Q. In the course of your
10 responsibilities at the World Trade Center, did
11 you know where those valves were?

12 A. I may have.

13 Q. Do you know sitting here today?

14 A. There are thousands of valves in the
15 buildings, and in the 10 years I was there, I
16 may have been at this point or I may have not
17 been at this point. I'm not certain.

18 Q. The sectionalizing valves on the B1
19 level, were those on the ceiling?

20 A. For the most part, yes.

21 Q. Do you have any reason to believe
22 that FSP 10 and FSP 9 would not have been on the
23 ceiling?

24 A. No.

25 Q. How, if one wanted to access those

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2 two sectionalizing valves, how would one get to
3 them?

4 A. I don't understand the question.

5 Q. Can you tell me briefly the purpose
6 of the sectionalizing valve, just a small
7 encapsulated statement of what it's meant to do?

8 A. Let's take the analogy of a piece of
9 pie divided into eight pieces, and we'll look at
10 the sprinkler loop as a pie. Suppose we wanted
11 to make some modifications or repairs to a
12 system on the piece of pie number one, we would
13 shut off valves on either side of that piece of
14 pie to keep the rest of the pie and the rest of
15 the loop activated while we worked on this one
16 section.

17 Q. So if you wanted to shut off the
18 valves that are represented by FSP 10 or FSP 9,
19 how would you go about doing that?

20 A. I'm not sure I get where you're going
21 with this.

22 Q. Well, you just told me that the
23 purpose of sectionalizing valves was so that you
24 could shut off valves on either side of an area
25 in order to work on that area, correct?

1 Malopolski - Confidential

2 A. Correct.

3 Q. I'm trying to get at exactly how you
4 shut them off. Physically, what did you have to
5 do to shut off those valves?

6 A. Turn the hand wheels.

7 Q. And for these particular valves,
8 where were those hand wheels located, that is,
9 were they on the ceiling?

10 A. I believe we said that they probably
11 were.

12 Q. So how did one get up to those hand
13 wheels?

14 A. Well, depending on the particular
15 valves, they may have had a chain operator on
16 them.

17 Q. Do you know whether these particular
18 valves had chain operators on them?

19 A. I do not. Or most probably if they
20 did not have a chain operator, there would be a
21 permanent ladder installed next to them.

22 Q. When you say a permanent ladder, do
23 you mean a ladder affixed to that location?

24 A. Correct.

25 Q. Would that be on a wall?

1 Malopolski - Confidential

2 A. Yes.

3 Q. Do you happen to know if there were
4 those kinds of ladders by those particular
5 valves?

6 A. For those two valves in particular, I
7 do not know.

8 Q. Do you know what proportion of the
9 sectionalizing valves on the B1 level had chain
10 operator?

11 A. I do not.

12 Q. Do you know what proportion of the
13 sectionalizing valves on the B1 level had
14 permanent ladders?

15 A. If the valves were next to a wall,
16 there would be a permanent ladder affixed to
17 that wall. If they were out in the middle of an
18 open space, there should have been a chain
19 operator. Or a person who was going to close
20 the valve would need to bring a ladder.

21 Q. So were there sectionalizing valves,
22 to your knowledge, that had neither a permanent
23 ladder or a chain operator?

24 A. Yes.

25 Q. As of September 11th?

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2 A. Yes.

3 Q. And do you know what proportion of
4 sectionalizing valves on the B1 level that was?

5 A. No.

6 Q. If you had to bring a ladder, where
7 would you get it from?

8 A. The person that was going to shut the
9 valve would bring the ladder with them.

10 Q. Do you know where they would get it
11 from?

12 A. There were ladders all over. We had
13 a lot of mechanical rooms, a lot of closets,
14 where tools such as ladders, wrenches, et
15 cetera, were stored.

16 Q. Have any of the drawings we looked
17 at, that we've looked at either in this
18 deposition or the prior day of testimony,
19 included information on the location of those
20 mechanical rooms or closets?

21 A. No.

22 Q. Do you know if there was a document
23 that indicated where those mechanical rooms and
24 closets were?

25 MR. CHEUNG: Objection to form.

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2 A. No.

3 Q. No, you don't know, or no, there was
4 not? Sorry, my question was unclear.

5 A. It is unclear. What are you asking
6 me?

7 Q. Was there a document that indicated
8 where those mechanical rooms and closets were?

9 A. Yes.

10 MR. CHEUNG: Objection, form.

11 Q. How do you know?

12 A. There were drawings of the entire
13 building, a set of base building drawings which,
14 similar to the ones that we've seen, which would
15 show there was an as-built condition.

16 Q. Would those drawings have been
17 included in the Port Authority manuals we've
18 discussed previously?

19 A. No.

20 Q. Where would one go if one wanted to
21 look at those drawings?

22 A. They would be in the files of the
23 base building drawings.

24 Q. Would those drawings have been kept
25 at the operations control center?

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2 A. I don't know.

3 Q. Do you know if they would have been
4 kept at the fire control centers?

5 A. No.

6 Q. They would not have?

7 A. No, there would not be enough room.

8 Q. So if someone at the fire control
9 center wanted to know where to find a ladder,
10 how would they go about doing that?

11 MR. STICKELMAN: At what point in
12 time?

13 MS. GIFFIN: Let's try as of September
14 11th, 2001.

15 A. Someone at the fire control desk
16 wanted to know where a ladder was, how would he
17 go about finding it?

18 Q. Correct.

19 MR. STICKELMAN: On September 11th?

20 MR. CHEUNG: I'd like to interpose a
21 form objection.

22 A. Best way would be to contact someone
23 on the mechanical operations contract staff and
24 ask them to bring a ladder or to get a ladder or
25 to tell them where a ladder was. These spaces

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2 were locked.

3 Q. Who kept the keys?

4 A. There were a number -- numerous keys,
5 so more likely than not, it would be a common
6 key that maybe 100 or 200 people would have.

7 Q. Would those keys have been kept at
8 the fire control center?

9 A. I don't know. They could have
10 probably got them on a key rung.

11 Q. Do you know if they would have kept
12 those keys at the operations control center?

13 A. All keys for the building were kept
14 at the operations control center, every single
15 one. There was a place called the key room.

16 Q. So referring back to Exhibit 16,
17 looking at the line we've just discussed, based
18 on this drawing, there are two sectionalizing
19 valves on that line, is that correct?

20 A. Yes.

21 Q. Do you believe the information
22 contained in Exhibit 16 was accurate as of
23 September 11th, 2001?

24 A. I have no reason to doubt it.

25 MR. CHEUNG: Objection to form.

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2 MR. STICKELMAN: Are you going on to
3 another topic?

4 MS. GIFFIN: No, almost done.

5 Q. I'd like to have you look at Exhibit
6 45 and Exhibit 16. Are you able to locate on
7 Exhibit 45 the same location we've discussed on
8 Exhibit 16?

9 MR. STICKELMAN: That's the one
10 that's marked number 8, FSP-10, FSP-9?

11 MS. GIFFIN: That line.

12 A. Yes.

13 Q. How many sectionalizing valves are
14 represented on Exhibit 45?

15 A. I don't know.

16 MR. STICKELMAN: Objection.

17 Q. Can you tell me why you're unable to
18 determine that?

19 A. I would need to have a bigger drawing
20 and I would need time to study it and count
21 them. I can't -- this is a very poor drawing.
22 Once again, it's a very bad copy, and I'm able
23 to understand only portions of it.

24 So when you ask me how many standpipe
25 sectionalizing valves there are, this covers a

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2 big area, and I can't really determine. But I
3 can see the two that we've been talking about.

4 Q. Oh, you can?

5 A. Yes, I can.

6 Q. Can you see on this document a small
7 circle on that same line that says 17?

8 A. Further to the right, yes.

9 Q. I'd like to draw your attention down
10 to the lower left-hand corner of Exhibit 45, do
11 you see that?

12 A. Yes.

13 Q. Does that appear to be an enlargement
14 of the area that's on the line we've been
15 discussing near the circled 17?

16 A. I don't know. It's labeled as a
17 detail. And in drawings, details are meant to
18 represent a standard situation that would occur
19 again and again and again and again. So a
20 detail would call out a typical installation.

21 Q. Do you see on this detail a reference
22 to 17?

23 A. I do.

24 Q. If I could draw your attention back
25 up to the other indication for 17. Do you see a

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2 circle just above the 17 we've discussed?

3 A. I do.

4 Q. Is that meant to indicate that that
5 circle is information contained on the detail in
6 the lower left-hand corner?

7 MR. STICKELMAN: Note my objection to
8 the question.

9 A. I don't know.

10 Q. You've testified that Exhibit 34 was
11 kept at the operations control center, correct?

12 A. Yes.

13 Q. And that Exhibit 16 appears to be
14 information drawn from Exhibit 34, correct?

15 A. Correct.

16 Q. So in case of an emergency, if
17 someone were trying to locate sectionalizing
18 valves, they would rely on information contained
19 in Exhibit 34, correct?

20 MR. STICKELMAN: On what date?

21 MS. GIFFIN: On September 11th, 2001.

22 MR. CHEUNG: Objection, form.

23 A. I don't know.

24 Q. Prior to the lease, if someone were
25 trying to locate sectionalizing valves, they

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2 would rely on information contained in Exhibit
3 34, correct?

4 MR. CHEUNG: Objection, form.

5 A. I don't know.

6 Q. Do you know what the purpose was of
7 keeping Exhibit 34 at the operations control
8 center and fire control center?

9 A. I believe I stated earlier that it
10 was a reference document.

11 Q. So if someone at the operations
12 control center referred to this document,
13 attempting to locate sectionalizing valves, you
14 expect that this document would give them the
15 information they needed to locate those valves,
16 is that correct?

17 MR. CHEUNG: Objection.

18 MR. STICKELMAN: Objection to form.

19 A. Who is the someone?

20 Q. Port Authority employee?

21 A. In what capacity?

22 Q. Port Authority employee whose job
23 responsibilities included working at the
24 operations control center or fire command
25 center?

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2 MR. STICKELMAN: Objection to the
3 form.

4 A. Let me walk back to this. If someone
5 at the OCC looked at this document, could they
6 find the valve that we're talking about?

7 Q. Um-hum.

8 A. I would have to qualify that and say,
9 according to their expertise. If they were
10 familiar with working with this kind of
11 material, then it should lead them to be able to
12 find it.

13 Q. So there may be employees who didn't
14 have the expertise to read these drawings?

15 A. Correct.

16 MR. STICKELMAN: Off the record.

17 (Discussion off the record.)

18 Q. Is there any other way that a Port
19 Authority employee working at the operations
20 control center prior to the lease could locate
21 sectionalizing valves besides referring to these
22 drawings?

23 MR. CHEUNG: Objection to form.

24 A. I don't understand why a person at the
25 OCC would want to locate the valves.

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2 Q. In case of emergency.

3 A. The procedure would be to call
4 someone who knew where the valve was.

5 Q. Who would they call?

6 A. They would call mechanical
7 operations.

8 Q. Is that a division of the Port
9 Authority?

10 A. Yes. World Trade Center department,
11 mechanical operations.

12 Q. How big is that division?

13 MR. STICKELMAN: At what point in
14 time?

15 MS. GIFFIN: Prior to the lease.

16 A. When prior to the lease? What date
17 prior to the lease? Because we discussed last
18 time how that was a shifting body of personnel
19 that had expanded and contracted several times
20 in the past 10 years.

21 Q. How about in calendar year 2001?

22 A. In calendar year 2001, I don't know.
23 I could give you a rough estimate.

24 MR. STICKELMAN: Don't guess. If you
25 don't know, you don't know.

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2 THE WITNESS: I really don't know.

3 Q. Was it more than 10 people?

4 A. Yes.

5 Q. Was it more than 100 people?

6 A. No.

7 Q. More than 50 people?

8 A. Yes.

9 Q. More than 75?

10 A. I don't know.

11 Q. So somewhere between 50 and 100

12 people?

13 A. Yes.

14 Q. Would all of those 50 to 100 people

15 know where the sectionalizing valves were in

16 case of an emergency?

17 A. I don't know.

18 Q. Is there a particular individual that

19 someone would call within that division in case

20 of an emergency to locate this kind of

21 information?

22 MR. STICKELMAN: At what point in

23 time?

24 MS. GIFFIN: Prior to the lease.

25 MR. STICKELMAN: What date prior to

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2 the lease?

3 MR. CHEUNG: Objection to the form.

4 MS. GIFFIN: Calendar year 2001.

5 A. Who are we looking for?

6 Q. The person who could tell someone
7 where the sectionalizing valves were.

8 A. Could you ask the question again?

9 Q. Sure. I believe you testified that
10 the most efficient way for someone to find the
11 sectionalizing valves in case of an emergency
12 would be to call someone in this division and
13 ask them, is that correct?

14 A. That's correct.

15 Q. I'm trying to determine if there's a
16 specific individual that would have been called
17 to gather that information?

18 A. The procedure would be to call on the
19 radio with the radio call sign, which would be a
20 general designation, and someone would respond.
21 It wouldn't have to be a specific person; it
22 could be any of a number of people.

23 MS. GIFFIN: I think we are moving on
24 to a different subject at this point so
25 let's go ahead and take a break.

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2 THE VIDEOGRAPHER: We're now going off
3 the record. The time is 10:49 a.m.

4 (Recess taken.)

5 THE VIDEOGRAPHER: We're now going on
6 the record. The time is 11:01 a.m.

7 BY MS. GIFFIN:

8 Q. If I could refer you just briefly to
9 Exhibit 45. Am I remembering correctly that you
10 referred to this as a base building drawing?

11 A. It appears to be.

12 Q. Would this drawing have been kept at
13 the operations control center?

14 A. I believe it would.

15 Q. If there was a more up-to-date
16 version of this drawing, would this drawing
17 still have been kept at the operations control
18 center?

19 A. Yes.

20 Q. Why, if you know?

21 A. As a reference document.

22 Q. Wouldn't you want people to refer to
23 the most up-to-date version?

24 A. I thought that's what you were
25 asking. You said if there was a more up-to-date

1 Malopolski - Confidential

2 version, would it be kept --

3 Q. Sorry. What I meant to ask is if
4 there was a more up-to-date version of this
5 drawing, would this drawing also be kept with
6 the most up-to-date version?

7 A. No.

8 Q. Just the most up-to-date version
9 would be kept?

10 A. Correct.

11 Q. Sorry. Is that also true for the
12 fire control centers, that is, the most
13 up-to-date drawings would be kept there?

14 A. I believe I testified that those
15 drawings would not be kept at the fire command
16 desks, that there was not physically enough
17 room. The volume of base building drawings was
18 huge.

19 Q. Right, thank you. Prior to the
20 break, you said that -- we were discussing who
21 would be called to locate sectionalizing valves.
22 And you indicated that the procedure would be to
23 call on the radio with the radio call sign.

24 Can you describe for me a little bit
25 more about what you mean by calling on the

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2 radio? I gather there was a radio communication
3 system at the World Trade Center?

4 A. Correct.

5 Q. Can you recall that?

6 MR. STICKELMAN: And we're talking
7 about prior to the net lease?

8 Q. Well, let me step back for just a
9 minute and cover a little territory that I may
10 explore more later, but at the time of -- do you
11 know the date on which the lease was finalized?

12 A. I believe that we had agreed it was
13 July 24th.

14 Q. 2001?

15 A. 2001.

16 Q. From July 24th, 2001 to September
17 11th, 2001, were you still working at the World
18 Trade Center?

19 A. Yes.

20 Q. What were your responsibilities?

21 A. Around that time, I was assigned to
22 be on the transition team to discuss matters of
23 the mechanical systems with the new operators.

24 Q. And in that capacity, were you
25 familiar with the manner in which the

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2 Silverstein parties -- strike that.

3 In your job responsibilities from
4 July 24th to September 11th, 2001, did you
5 become familiar with the manner in which the
6 Silverstein parties operated the World Trade
7 Center complex?

8 MR. STICKELMAN: Objection.

9 A. No.

10 Q. In your capacity on the transition
11 team, did you share with the Silverstein parties
12 the manner in which the Port Authority operated
13 the World Trade Center complex?

14 MR. STICKELMAN: Objection to form.

15 A. Yes.

16 Q. Were you involved with, in
17 communications about the extent to which the
18 Silverstein parties would have decided to
19 operate the buildings in a manner different from
20 the manner in which the Port Authority -- strike
21 that. I'd like to start again.

22 You said you shared information with
23 the Silverstein parties about the manner in
24 which the Port Authority operated the World
25 Trade Center complex, correct?

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2 A. Yes.

3 Q. In the course of sharing that kind of
4 information, did the Silverstein parties
5 representatives ever indicate to you that they
6 had decided to operate the building in the same
7 way or in a different way?

8 A. No.

9 Q. So returning to my question about
10 radio communication, let's stick with the time
11 prior to July 24th, 2001, can you describe for
12 me the radio communication system?

13 MR. STICKELMAN: Note my objection to
14 the form.

15 A. A good proportion of the staff in the
16 various trade disciplines would have Motorola
17 radio handsets, that's commonly referred to as
18 walkie-talkies. And due to the large area that
19 these people would be moving about in, that
20 would be the most efficient way to contact them
21 with any messages, or for them to relay any
22 messages back to their supervision.

23 There were three different bands, at
24 least three different bands, maybe five. The
25 police had a radio band of their own.

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2 Construction had a radio band. Mechanical
3 operations and electrical operations and
4 structural operations shared a radio band.
5 Building operations had their own radio band.

6 And there may have been others also.
7 The radio handsets were switchable between
8 bands, and depending on which group you belonged
9 to, you would be on that band and your
10 supervisor would be able to contact you and you
11 would be able to contact him.

12 Q. Can you estimate for me approximately
13 how many radios there were among the World Trade
14 Center Port Authority staff prior to the lease?

15 A. No.

16 MR. STICKELMAN: Objection.

17 Q. Was it more than 100?

18 A. Oh, yes.

19 Q. Prior to the lease in 2001, what
20 division of the Port Authority were you
21 personally with, in calendar year 2001?

22 A. Tenant alterations, construction
23 management.

24 Q. Did you have a radio?

25 A. No.

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2 Q. Did anyone within your group have a
3 radio?

4 A. Yes.

5 Q. Can you estimate how many people in
6 your group had a radio?

7 A. Rough guess?

8 MR. STICKELMAN: Don't guess.

9 A. I don't know.

10 Q. Returning to the previous set of
11 questions, you had indicated that in case of an
12 emergency, the most efficient way for someone at
13 the operations control center to locate a
14 sectionalizing valve would be to call the
15 engineering division?

16 A. I said mechanical operations.

17 Q. On the radio?

18 A. Yes.

19 Q. Do you know how many radios the
20 mechanical operations division had?

21 A. No.

22 Q. I'm sorry if I already asked you
23 this, but do you know how many people were in
24 the mechanical operations division prior to the
25 lease?

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2 A. At what time prior to the lease?

3 Q. Say immediately prior, a month prior?

4 A. I don't know.

5 Q. Do you know how many people were in
6 mechanical operations after the lease until
7 September 11th?

8 A. No.

9 Q. Was there -- during the time period
10 July 24th to September 11th, I understand that
11 was the transition period from the Port
12 Authority to Silverstein, correct?

13 MR. STICKELMAN: Objection to the
14 form.

15 A. Yes.

16 Q. And during that period, some Port
17 Authority staff continued to work at the World
18 Trade Center, correct?

19 A. Yes.

20 Q. And you were among those, correct?

21 A. Yes.

22 MR. STICKELMAN: I would just note
23 that the majority of the Port Authority
24 staff is still working at the World Trade
25 Center.

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2 A. Very few people had left at the time
3 of September 11th.

4 Q. Some Port Authority employees'
5 responsibilities still included World Trade
6 Center related tasks, correct?

7 MR. STICKELMAN: Note my objection to
8 the form.

9 A. I don't understand the question.

10 Q. Well --

11 MR. CHEUNG: I just wanted to note,
12 an objection by one person on our side is an
13 objection for all. Thank you.

14 Q. Are you aware -- during the time
15 period July 24th to September 11th, 2001, do you
16 know who became responsible for what the
17 mechanical operations division of the Port
18 Authority had been responsible for prior to the
19 lease?

20 MR. CHEUNG: Objection -- okay.

21 Q. That is, I'm trying to determine if
22 there was a set of employees who took over the
23 responsibilities of the mechanical operations
24 division?

25 MR. STICKELMAN: Employees of who?

1 Malopolski - Confidential

2 Q. Was there a set of people who took
3 over the responsibilities from the Port
4 Authority employees?

5 MR. CHEUNG: Objection to form.

6 A. Silverstein's people.

7 Q. Do you know who those people were?

8 A. My contact with Silverstein was
9 Mr. Charles Magee.

10 Q. Was Mr. Magee in charge of the
11 mechanical operations at the World Trade Center
12 after the lease?

13 A. Yes.

14 MR. CHEUNG: Objection, form.

15 Q. Do you know how many people he had
16 working for him with respect to the mechanical
17 operations at the World Trade Center after the
18 lease?

19 A. No, I don't.

20 Q. Do you know whether or not those
21 people were provided with radios?

22 A. Yes.

23 Q. Do you know how many radios they were
24 provided with?

25 A. No.

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2 Q. In the course of your job
3 responsibilities, you became very familiar with
4 the location of the sectionalizing valves we've
5 been discussing, correct?

6 A. Yes.

7 Q. Would you have been able to locate or
8 describe the location of a sectionalizing valve
9 at any particular location in the World Trade
10 Center without referring to any of the drawings
11 that we have discussed here today, or any other
12 information?

13 MR. STICKELMAN: At what point in
14 time?

15 MS. GIFFIN: At any point in time;
16 sitting here today, September 11th, at any
17 point in time.

18 MR. STICKELMAN: Note my objection to
19 the question. You can answer.

20 A. In some cases, yes, and in some cases,
21 no. As I said, there were thousands and
22 thousands and thousands of valves.

23 Q. So some of them you were familiar
24 enough with that you could describe them without
25 referring to a map, and some of them you would

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2 have to refer to these drawings, correct?

3 A. Correct.

4 Q. Are you aware whether anyone else is
5 as familiar with the location of these
6 sectionalizing valves as you are?

7 A. Yes.

8 MR. CHEUNG: Objection to form.

9 Q. Who?

10 A. Mechanical operations staff that have
11 been there for, in some cases the gentlemen have
12 been there for 30 years. They would be as
13 familiar if not more familiar with their
14 locations than I would be.

15 Q. Do you mean to say that the entire
16 mechanical operations division staff would be as
17 familiar as you are?

18 MR. STICKELMAN: Objection.

19 A. No. Certain individuals.

20 Q. Can you tell me who those individuals
21 are, were -- are?

22 A. I guess I could.

23 MR. STICKELMAN: Do you know?

24 THE WITNESS: Offhand, no.

25 A. But I guess if we sat down with a list

1 Malopolski - Confidential

2 of employees, I could perhaps tell you who I
3 thought knew the system better than myself. It
4 would just be a guess on my part.

5 MR. STICKELMAN: Don't guess.

6 Q. Just for clarity's sake, I'm
7 discussing people who would know the system as
8 well or better than you, so people who have as
9 much knowledge as you or more.

10 A. Right.

11 Q. Can you estimate for me how many
12 people would be included in that group?

13 MR. STICKELMAN: Objection. You can
14 answer if you know.

15 A. No.

16 Q. Would it be more than 10?

17 A. It would be just a wild guess, but
18 yes.

19 Q. More than 20?

20 A. It's still just a wild guess.

21 MR. STICKELMAN: Don't guess. If you
22 don't know, you don't know.

23 A. I don't know.

24 Q. Would it be more than 100?

25 A. No.

1 Malopolski - Confidential

2 Q. Less than 100?

3 A. Yes.

4 Q. Less than 50?

5 A. Yes.

6 Q. Fair to say around 20 people, give or
7 take?

8 A. I think --

9 MR. CHEUNG: Objection to form.

10 A. I think we've probably narrowed it
11 down somewhere between 10 and 50.

12 Q. What was the power source for the
13 radio communication systems prior to the lease?

14 A. I don't know.

15 Q. You don't know if they were radio
16 operated or relied on any other kind of power
17 source?

18 MR. STICKELMAN: He said he doesn't
19 know.

20 A. I don't know. That's out of my scope
21 of knowledge.

22 Q. In the course of your
23 responsibilities at the World Trade Center, did
24 you become familiar with emergency procedures
25 for the World Trade Center complex?

1 Malopolski - Confidential

2 A. What are we talking about?

3 Q. For example, was there an evacuation
4 plan in case of an emergency?

5 A. I don't know.

6 Q. Were you ever involved in fire drills
7 when you were at the World Trade Center?

8 A. No, except as a participant when a
9 fire drill was called on my floor. No.

10 Q. You said as a participant when a fire
11 drill was called on your floor.

12 A. Right.

13 Q. When a fire drill was called on your
14 floor, what was the procedure?

15 A. Do you see over in the corner,
16 there's a strobe light? And there are probably
17 speakers in this room. When a fire alarm is put
18 in for this floor, the light will flash; there
19 would be a tone through the speakers and an
20 announcement for everybody to evacuate their
21 offices and meet, in our case it would be in the
22 cross corridor, and await further instructions.

23 Q. The cross corridor would be on your
24 floor?

25 A. Yes. We had, before we had -- the

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2 last time we talked about how the building was
3 divided into quadrants by a central corridor,
4 north, south, east, west.

5 Q. Again, just based on your personal
6 knowledge from your participation in these
7 drills, was there a procedure in place for what
8 you were supposed to do if the entire building
9 needed to be evacuated?

10 A. I don't know.

11 Q. Were you personally supposed to
12 report to any particular location in case of an
13 emergency?

14 MR. STICKELMAN: Objection. In his
15 capacity as what?

16 Q. Do you understand the question?

17 A. No.

18 Q. Were you, prior to the lease, were
19 you ever given any instruction as to where you
20 should report in case the entire World Trade
21 Center had to be evacuated?

22 A. No.

23 Q. I had thought that you testified
24 previously that in the event of a fire, the
25 responsibility of your group was to report to

1 Malopolski - Confidential

2 the fire command center and await instructions
3 from the FDNY, which I gather is the Fire
4 Department of New York?

5 A. Correct.

6 Q. How did you know that that was your
7 group's responsibility?

8 A. That was disclosed to us by our
9 management.

10 Q. So in case of a fire, it was your
11 responsibility personally to report to a fire
12 command center?

13 A. At what point in time?

14 Q. Prior to the lease.

15 A. When prior to the lease? As we had
16 discussed last time, my responsibilities changed
17 a number of times in the two years prior to the
18 net lease.

19 Q. At what point in time was it the
20 responsibility of your group, which I gather
21 would include you, to report to the fire command
22 center?

23 A. I don't understand the question.

24 Q. Well, I believe you testified at your
25 last deposition that it was the responsibility

1 Malopolski - Confidential

2 of your group to report to the fire command
3 center in the case of a fire. Was it ever your
4 responsibility to do that?

5 A. No. I testified that it was my
6 responsibility, not my group's responsibility.

7 Q. Okay, it was not your group's
8 responsibility?

9 A. The responsibility would be different
10 for each individual according to what position
11 they held.

12 Q. I see. But at some point in time, it
13 was your responsibility to report there,
14 correct?

15 A. Yes.

16 Q. At what point in time?

17 A. From 1993 until approximately two
18 years before the net lease.

19 Q. And remind me, please, what was your
20 job at that point?

21 A. Which point?

22 Q. From 1993 until approximately two
23 years before the net lease?

24 A. I held two positions, one as general
25 maintenance supervisor and one as chief

1 Malopolski - Confidential

2 maintenance supervisor.

3 Q. And was it because you held those
4 positions that it was your responsibility to
5 report to the fire command center in case of a
6 fire?

7 A. That's correct.

8 Q. Did someone take over those positions
9 after you?

10 A. I'd have to say yes, but due to the
11 reorganizations, it wouldn't be a direct line.
12 You can't say that someone held the same
13 position that I held because everything changed.

14 Q. From the period 1993 until
15 approximately two years before the net lease, do
16 you know how many Port Authority employees had
17 the responsibility to report to the fire command
18 center in case of a fire?

19 MR. STICKELMAN: Objection to the
20 form.

21 A. I do not know.

22 Q. Can you give me an estimate?

23 MR. STICKELMAN: Objection. Don't
24 guess.

25 A. I could just tell you that it was my

1 Malopolski - Confidential

2 responsibility.

3 Q. When you participated in fire drills,
4 was it -- I believe you testified it would be a
5 fire drill for your particular floor, correct?

6 A. Yes.

7 Q. Do you know if those drills were
8 timed?

9 A. I do not.

10 Q. In case of a fire at the World Trade
11 Center, prior to the lease, are you aware of
12 whether any Port Authority employee was
13 particularly tasked with the responsibility of
14 coordinating with the Fire Department of New
15 York?

16 A. If things were the same in the two
17 years prior to the net lease as they were in the
18 time from 1993 up to that point, it would be the
19 fire safety director. But in that two years
20 prior to the net lease, I was not privy to a lot
21 of the things that I was in the period prior to
22 that. But I would assume that things had not
23 changed.

24 Q. Do you know, in case of a fire, if
25 any Port Authority employee was tasked with the

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2 responsibility for operating sectionalizing
3 valves?

4 A. Specifically tasked with that? No.

5 Q. If the Fire Department of New York
6 needed to operate sectionalizing valves in case
7 of a fire, was there a particular Port Authority
8 employee with whom they would coordinate that
9 effort?

10 MR. STICKELMAN: Objection.

11 MR. CHEUNG: Objection.

12 A. That would be the purpose that I would
13 be at the fire command desk from 1993 to two
14 years prior to the net lease. They would ask me
15 and I would assign someone to take care of that,
16 in my capacity as a chief maintenance
17 supervisor.

18 Q. What if you weren't there, would
19 there be someone else who would take over that
20 responsibility?

21 A. Yes.

22 Q. Who?

23 A. It would be my, my designee, the next
24 guy down the line.

25 Q. During that period, 1993 to two years

1 Malopolski - Confidential

2 before the net lease, was everyone who you
3 supervised qualified in case of emergency to
4 fulfill that responsibility?

5 A. Which responsibility?

6 Q. That of coordinating with the Fire
7 Department of New York to operate sectionalizing
8 valves?

9 MR. STICKELMAN: Objection.

10 A. I believe I testified that we would
11 call someone to take care of that, so yes, they
12 would be authorized to give that direction in my
13 absence.

14 Q. But I believe you also testified that
15 there were a limited number of people who were
16 as familiar with the system as you were,
17 correct?

18 MR. STICKELMAN: Objection.

19 A. I said that there were a pool of
20 people that would know.

21 Q. And if the individual who was
22 coordinating with the Fire Department of New
23 York in a fire was not as familiar with the
24 sectionalizing valves as you or that other pool
25 of people, would they rely on the operations

1 Malopolski - Confidential

2 manual kept at the OCC or the fire control
3 center to gather that information?

4 MR. STICKELMAN: Objection.

5 A. I don't know.

6 Q. Aside from calling you or some other
7 individual similarly familiar with these valves,
8 is there any other way, besides consulting these
9 manuals, that they could gather this
10 information?

11 A. I don't think so.

12 MR. STICKELMAN: Objection to form.

13 MS. GIFFIN: Let's go ahead and change
14 the tape.

15 MS. GIFFIN: We're now going off the
16 record. The time is 11:29 a.m. This is the
17 end of the tape labeled tape number one of
18 volume II. The videotaped deposition will
19 continue on the tape labeled number 2 of
20 volume II.

21 (Pause in the proceedings.)

22 THE VIDEOGRAPHER: This is the tape
23 labeled number 2 of volume II of the
24 videotaped deposition of Dennis Malopolski.
25 We're now going on the record. The time is

1 Malopolski - Confidential

2 11:31 a.m.

3 BY MS. GIFFIN:

4 Q. In that period of time from 1993
5 until two years prior to the net lease, when it
6 was your responsibility to report to the fire
7 command center, did you ever participate in fire
8 drills where you actually did report to the fire
9 command center?

10 MR. STICKELMAN: Objection to the
11 question.

12 A. No.

13 Q. If you could pull out Exhibit 12,
14 please, and Exhibit 34 again.

15 MR. STICKELMAN: Just for the record,
16 Exhibit 12 is AIW 0481 and also Figure 8.7.

17 Q. And if I could point you to page
18 194729. Does the information on Exhibit 12
19 appear to be identical to the information on
20 page 194729?

21 A. Yes, it looks like this is an
22 enlarged copy of that page.

23 Q. Again, I believe you testified at the
24 prior day of your testimony that you probably
25 gave Exhibit 12 to John Hickey. Assuming that

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2 you did, would you have gotten that information
3 from Exhibit 34, page 194729?

4 MR. STICKELMAN: Note my objection.

5 A. Let me go back and say this. This is
6 not the way I said it was; this is actually a
7 reduced copy of Exhibit 12. So Exhibit 12 would
8 be, if I did in fact give it to Mr. Hickey,
9 which I don't have any reason to doubt, this
10 would be the document I gave him. And the one
11 we're looking at here is a reduced size of this.

12 Q. I see. So you would have given it to
13 Mr. Hickey in the form we see in Exhibit 12?

14 A. That's correct.

15 Q. But am I correct that you would have
16 gotten the original drawing and enlarged it from
17 Exhibit 34?

18 A. No. This is an original drawing, due
19 to the fact that you can see the loose-leaf
20 holes. The books were loose-leaf binders so --
21 and I recall that the drawings folded in,
22 because anything of this size, you definitely
23 want, you know, bigger than this. Because when
24 you get on to advanced ages, like myself, you
25 can't even see this.

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2 MS. GIFFIN: Let me just direct this
3 to your counsel. Mr. Stickelman, am I
4 correct that this is a document that was
5 produced on a compact disc?

6 MR. STICKELMAN: I believe it was.

7 MS. GIFFIN: So it was produced in its
8 original form?

9 MR. STICKELMAN: Correct.

10 Q. Just so I can clear up the record, am
11 I correct that if you gave this information,
12 that is Exhibit 12, to Mr. Hickey, it would have
13 been information that you got from Exhibit 34,
14 or the original version of Exhibit 34?

15 A. Correct.

16 Q. If I can refer you to Exhibit 13,
17 please, and to page 194730 of Exhibit 34. And
18 if you could tell me if the information included
19 in these two documents appears to be identical?

20 A. This, in fact, is the same situation
21 that we just spoke about the last two documents.

22 Q. So again, if you gave this
23 information to Mr. Hickey, you believe it's the
24 information that you drew from the original
25 version of Instruction Manual 23, correct?

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2 A. Correct. And as I said, this would
3 be the original version.

4 MR. STICKELMAN: Indicating Exhibit
5 13.

6 THE WITNESS: The larger one with the
7 loose-leaf holes copied into it.

8 MS. GIFFIN: I'm done with these.

9 Q. Mr. Malopolski, are you familiar with
10 the term smoke purge system?

11 A. Yes.

12 Q. Can you tell me what that means,
13 briefly?

14 A. In the event of a fire in a space
15 inside the building, there would be a way to
16 operate the HVAC system to evacuate the smoke
17 from that space.

18 Q. And was there a smoke purge system at
19 the World Trade Center prior to September 11th,
20 2001?

21 A. Yes.

22 Q. How was it operated?

23 MR. STICKELMAN: Objection to the
24 form.

25 Q. Let me clarify the question. I'm not

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2 asking you -- I'm sure you have extensive
3 information on how it's operated. I'm really
4 looking for an overview of how, what location
5 would one go to to locate, to turn it on or to
6 operate it in case it was needed?

7 A. Okay, quick overview.

8 MR. STICKELMAN: Note my objection.

9 A. Quick overview. If there was a smoke
10 condition in a space, there would be smoke
11 detectors which would go into alarm. And the
12 first action would be for those detectors to
13 shut all HVAC off, and also send a signal to the
14 fire command desk.

15 And then if you wanted to do a smoke
16 purge, there were a number of places where that
17 could be accomplished. In other words, there
18 were multiple controls that would turn those
19 units into the smoke purge mode.

20 Q. Starting first with the smoke
21 detectors, you indicated that the smoke
22 detectors would shut off all HVAC and send a
23 signal to the fire command desk, correct?

24 A. Correct.

25 Q. What was the power source for those

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2 smoke detectors?

3 A. I don't know.

4 Q. You also said that there were a
5 number of places that one could accomplish a
6 smoke purge, correct?

7 A. Correct.

8 Q. What places were those?

9 A. The mechanical equipment room could
10 be used to -- the main control panels for that
11 equipment have switches that would put the
12 equipment into smoke purge.

13 Q. Sorry, which mechanical equipment
14 room?

15 A. All mechanical equipment rooms. As
16 we have discussed earlier, there were multiple
17 mechanical equipment rooms that served different
18 portions of the complex. And the HVAC equipment
19 would be in that space, but it would serve
20 places perhaps 16 floors away in a single
21 quadrant.

22 So there were fire control centers
23 for that equipment adjacent to the equipment on
24 that floor. And there were switches that would
25 enable you to go through the different modes.

1 Malopolski - Confidential

2 And so someone on the mechanical room floor
3 could switch the equipment into smoke purge, or
4 there was a remote station which was referred to
5 as Big Blue, which had redundant controls to
6 accomplish the same feat.

7 Q. Let's start with the mechanical
8 equipment rooms, these switches, those had to be
9 operated manually, correct?

10 A. That's correct.

11 Q. And the remote station known as Big
12 Blue, where was that located?

13 A. That was located on the B1 level in
14 what we refer to as the J zone, just north of
15 Tower 1.

16 Q. And there were redundant controls in
17 that remote station for the entire complex?

18 A. Yes.

19 Q. Were those also operated manually?

20 A. Yes. Smoke purge was always a manual
21 operation.

22 Q. Are you familiar with the term
23 emergency power system, sir?

24 A. Yes.

25 Q. What does that mean, briefly?

1 Malopolski - Confidential

2 A. That would mean that there would be
3 power that could be switched over to in case the
4 normal source was lost.

5 Q. Were you familiar with the emergency
6 power system at the World Trade Center prior to
7 September 11th, 2001?

8 A. In a peripheral manner, yes.

9 Q. Do you know where it was located?

10 MR. CHEUNG: Objection to form.

11 A. There were a number of alternatives
12 for emergency power. We had diesel generators
13 in the B6 subgrade. We had power lines that ran
14 through the PATH tunnel from New Jersey. And in
15 certain cases there were battery backups for
16 systems that were -- you know, like your home
17 computer has a UPS, an uninterruptable power
18 source, that would kick in if everything else
19 lost power, if your three alternatives prior to
20 that were out.

21 Q. You said in certain cases there were
22 battery backups, can you tell me what kinds of
23 cases there were battery backups for?

24 A. I don't know.

25 Q. Were there battery backups for the

1 Malopolski - Confidential

2 entire complex?

3 A. No. You know, being in my capacity,
4 as it was, I had peripheral knowledge of systems
5 that I wouldn't -- you know, you know things,
6 but you wouldn't know all about it, all right?

7 And for instance, I would know that
8 there would be a battery backup system for the
9 fire alarms. That would be something that would
10 be like a quadruple redundant system; if you
11 lost power, you lost emergency power, if you
12 lost tertiary power, you would have battery
13 power. That would be something that you'd want
14 powered up.

15 Now, I don't know how it worked or
16 what, but I did know that it existed.

17 Q. Are you aware of any other systems
18 for which battery backup existed?

19 A. No, but I assume there were others.

20 Q. The power lines that ran through the
21 PATH tunnel, can you describe how they
22 functioned at the backup system?

23 A. No.

24 Q. I'd like to refer you to page in
25 Exhibit 34, page 194764. The Bates stamp on

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2 this document, unfortunately, partially obscures
3 the title. Are you able to tell whether this
4 represents the B6 level of the World Trade
5 Center complex? And I see your counsel is
6 looking through the previous drawings; if you
7 need to do that in order to place it in context,
8 please do so.

9 A. Judging by the fact that it shows the
10 track area and the emergency generator plant,
11 I'm going to have to say that it looks like B6.

12 Q. This drawing represents -- sorry,
13 strike that.

14 On the left-hand side of this
15 drawing, about the middle, there are words
16 printed on this drawing that say "Emergency
17 Generator," do you see that?

18 A. Yes, I do.

19 Q. Is that an accurate representation of
20 the location of the emergency generator that you
21 referred to on the B6 level?

22 MR. STICKELMAN: Objection.

23 A. Well, it is a set of emergency
24 generators.

25 Q. Those were the diesel generators you

1 Malopolski - Confidential

2 mentioned a few minutes ago?

3 A. That's correct.

4 Q. How many were there?

5 A. There were either seven or eight.

6 Q. And am I reading this drawing
7 correctly -- sorry, strike that.

8 Let me ask again. Is this an
9 accurate representation of the location of those
10 diesel generators?

11 A. Yes.

12 Q. Do you understand that the location
13 of those emergency generators was bounded by the
14 black line surrounding the words, "Emergency
15 Generator"?

16 A. Yes.

17 MS. GIFFIN: Let me introduce the
18 next document -- I only have three of these.

19 A document labeled LZA Technology UB-6.

20 (Malopolski Exhibit 46, document
21 labeled LZA Technology UB-6, marked for
22 identification, as of this date.)

23 MR. CHEUNG: What number are we on?

24 MR. STICKELMAN: 46.

25 (Discussion off the record.)

1 Malopolski - Confidential

2 Q. Mr. Malopolski, does this also appear
3 to be a drawing of the B6 level of the World
4 Trade Center complex?

5 MR. STICKELMAN: Objection.

6 A. From some of the things that are
7 listed here, such as the diesel storage tanks,
8 it could be, but it's not a good rendering and I
9 couldn't say for sure that it is. Although, as
10 I look at it further, I see it says, "Main
11 Chiller Room Pipe Gallery."

12 That was on the B6 level, so this
13 looks like it's a derivative of the one we just
14 looked at, that someone else, LZA Technology,
15 has taken. And I don't know what the purpose of
16 the drawing is, but I would say that it probably
17 is.

18 Q. It is labeled "Surface/Subgrade Space
19 Usage Layout Level B6"?

20 A. Okay, that would be B6. Sorry, I
21 didn't see that.

22 Q. You said this is not a good
23 rendering. Can you tell me why you say that?

24 MR. STICKELMAN: First, have you ever
25 seen this before?

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2 THE WITNESS: No.

3 Q. Can you tell me why you said it wasn't
4 a good rendering?

5 A. It doesn't lack the detail of the one
6 we just looked at -- excuse me, it lacks the
7 detail of the one we just looked at.

8 Q. Can you look again at the one we just
9 looked at, at page 194764?

10 A. Okay.

11 Q. Based on your knowledge of the
12 system, and based on your knowledge of the
13 drawings, what I would like you to do is, with a
14 pen, if you can, draw approximately on the LZA
15 drawing the location of the emergency generators
16 that we discussed on page 194764?

17 MR. CHEUNG: Objection, form.

18 A. I'm just going to make a slash where a
19 generator would be.

20 Q. Actually, if you could represent the
21 entire area that would have included all of
22 those generators?

23 A. Would you just like me to circle it
24 perhaps?

25 Q. As close as you can get to

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2 representing it as, in the sort of trapezoid
3 shape as represented there, rather than a
4 circle, which would be probably more accurate.

5 MR. STICKELMAN: If you can do it.

6 A. What I'm going to try to do is
7 transpose this trapezoid on to here.

8 Q. To the best of your ability.

9 A. Because I would say that this drawing
10 is more accurate than this one. That's why I
11 said this is a poor rendering, because there's a
12 lot of divisions in here that I don't recognize.

13 Q. Okay.

14 A. (Witness complying.)

15 Q. I want to make sure that that
16 rendering --

17 A. I have a black pen.

18 Q. I just want to make sure that that
19 shows up when copying.

20 A. Is that better?

21 Q. If I could just see that. Thank you,
22 sir.

23 MR. CHEUNG: Can I see it?

24 MS. GIFFIN: Yes. We're done with
25 that.

1 Malopolski - Confidential

2 (Discussion off the record.)

3 MR. STICKELMAN: I assume you want him
4 to initial that?

5 MS. GIFFIN: Yes, please, and date it.

6 THE WITNESS: (Witness complying.)

7 Q. I'd like to refer you now to Exhibit
8 36, sir. And I point you to page 208750. This
9 appears to be a list of figures that were
10 included in this manual, correct?

11 A. Correct.

12 Q. If I could now draw your attention to
13 page 208757 and 208758. You'll see that page
14 208757 is labeled Figure 1.1, correct?

15 A. Correct.

16 Q. And page 208758 is labeled Figure
17 4.13, correct?

18 A. Correct.

19 Q. Now, if I can refer you back to page
20 208750, it appears to me that there were a
21 number of drawings in between these two numbers,
22 that is this list includes Figure 2.1, 2.2, et
23 cetera, through several pages, until you get to
24 Figure 4.13. Do you see that?

25 A. As a matter of fact, there are two

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2 pages of figures referred to between those two.

3 Q. Based on your knowledge of these
4 manuals, specifically of this manual, do you
5 know whether those drawings were in fact
6 included in this manual?

7 A. They should have been.

8 Q. Do you know why they might not be
9 included in this version?

10 A. I don't.

11 Q. Are you aware of whether or not those
12 drawings still exist?

13 A. I don't know. But if we look at some
14 of these figures, I believe they may be here,
15 because you see Figure 2.2 is called the fire
16 standpipe water distribution loop concourse
17 level, so we may in fact have some of these very
18 same drawings in this stack that we've
19 previously labeled as exhibits.

20 Q. So based on your experience with
21 these manuals, am I understanding you correctly
22 that drawings in this manual would have been
23 consistent with the drawings in manual 23 if
24 they represented the same information?

25 A. Is this in fact manual 23?

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2 Q. No, this is manual 19.

3 A. Manual 19. I don't know. But I
4 would guess that they will be the same. Since
5 this 23 was an overview, and 19 is a derivative
6 of the systems mentioned, that's just, you know,
7 logically speaking. But do I know it? I don't
8 know.

9 MS. GIFFIN: For the record,
10 Mr. Stickelman, I realize that there are
11 difficulties with the Port Authority's
12 records gathering. I assume this has been
13 produced in the best manner you were able to
14 locate it.

15 MR. STICKELMAN: The originals, as you
16 know, were destroyed on September 11th. If
17 we found them in another facility or if
18 someone had a copy in their desk, that's how
19 we got them.

20 MS. GIFFIN: And if any versions of
21 these figures were located anywhere else,
22 those would have been produced?

23 MR. STICKELMAN: Yes, they were.

24 THE WITNESS: And as I testified, they
25 were loose-leaf manuals, so if they had

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2 gotten them from somewhere else, perhaps
3 someone had opened them up and taken the
4 documents out for reference. So there would
5 be a chance that any stuff that they found
6 might have been incomplete due to the fact
7 that it was a loose-leaf binder.

8 MS. GIFFIN: I understand, thank you.

9 Q. I'd like to discuss your experience
10 subsequent to the 1993 bombing of the World
11 Trade Center. Can you remind me again what your
12 position was when you came to the Port Authority
13 in 1993?

14 A. I came to the Port Authority, I
15 believe, in 1986.

16 Q. I'm sorry. When you came to the
17 World Trade Center --

18 A. When I came to the World Trade Center
19 in 1993?

20 Q. Um-hum.

21 A. I was general maintenance supervisor.

22 Q. I believe you testified previously
23 that part of your responsibilities when you came
24 to the World Trade Center were repair of the
25 refrigeration plant, is that correct?

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2 A. That's correct.

3 Q. Did you have any other
4 responsibilities for repairs at the World Trade
5 Center due to the 1993 bombing?

6 MR. CHEUNG: Objection.

7 A. That was my primary focus, was the
8 reconstruction of the refrigeration plant.

9 Q. Did you have other areas of repairs
10 that you were working on even though they
11 weren't your primary focus?

12 A. As I said, concurrent with that
13 effort, we were also building refrigeration
14 plants on the street around the complex. And
15 between the main refrigeration plant
16 reconstruction and the erection of the 21,000
17 tons of refrigeration on the street, that took
18 up all my time.

19 Q. Can you describe for me the damage
20 that was caused at the World Trade Center as a
21 result of the 1993 bombing?

22 MR. STICKELMAN: Objection, lack of
23 foundation.

24 A. How elaborate do you want to be? Are
25 you focusing on structural damage? Are you

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2 talking about location? Equipment damage?

3 People we lost?

4 Q. Let's start with location.

5 A. Okay. The bomb was parked in the B2
6 parking level adjacent to the south wall of the
7 north tower. It was a truck bomb. I believe
8 they calculated it to be about 1500 pounds of
9 ANFO, which would be ammonium nitrate fuel oil
10 explosive.

11 Q. In the course of your
12 responsibilities, did you become familiar with
13 the kind of structural damage that bomb caused
14 at the World Trade Center?

15 A. Yes.

16 Q. Can you describe that for me, let's
17 say in about two paragraphs?

18 MR. CHEUNG: Objection to form.

19 MS. GIFFIN: I'm just trying to give
20 the witness an idea of how much detail.

21 A. The terrorists detonated a truckload
22 of explosives and the blast wave ruptured
23 subgrade levels down to the refrigeration plant
24 and levels above it up through the plaza,
25 creating a hole, let's say approximately, I

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2 don't know, 100 by 200 feet. Kind of just a
3 rough estimate.

4 And aside from the immediate
5 breaching of those subgrade floors, there was an
6 expanded circle of structural damage of the
7 walls that were knocked down, equipment
8 destroyed, cars blown up and set on fire, lot of
9 smoke damage beyond that.

10 Q. Did you have any responsibility for
11 repairing the structural damage that you've just
12 described?

13 A. No.

14 Q. Can you describe for me the equipment
15 damage that was caused as a result of the 1993
16 bomb?

17 MR. STICKELMAN: Objection to form.

18 Q. Let me step back. In the course of
19 your responsibilities, did you become familiar
20 with the damage that was caused to equipment at
21 the World Trade Center as a result of the 1993
22 bombing?

23 A. Yes.

24 MR. STICKELMAN: Still note my
25 objection.

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2 Q. Can you describe that damage for me,
3 please?

4 A. I can best describe the damage to the
5 central refrigeration plant since that was the
6 area that I was most involved with at the time.

7 Q. Okay, I would like to hear that. But
8 are there any other areas of equipment damage
9 that you are familiar with, understanding that
10 you would not be as familiar with those?

11 A. I'm sure if we took some time and I
12 sat down, you know, it's almost 10 years ago,
13 that we could go chapter and verse, but, you
14 know, what springs to mind is the stuff that I
15 was most involved with.

16 So you know, there were transfer fans
17 and subgrade ventilation and those types of
18 things. A lot of the HVAC equipment was
19 damaged. It was strange because, as you
20 radiated out from the blast center, there would
21 be stuff that would be untouched and then let's
22 say a duct made a turn, at that point it would
23 be totally blown apart.

24 So anything that was like in a direct
25 radial line from the blast wouldn't have been

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2 affected, but stuff far away would be. It was
3 weird as you walked around and saw the
4 different -- as the blast wave went out. And
5 there were widely scattered things that were
6 broken.

7 Q. You mentioned transfer fans, subgrade
8 ventilation and HVAC. Beyond what you just
9 stated, do you have any more detail about the
10 damage that was caused to those three areas?

11 A. Just anecdotal stuff that I saw
12 walking around. I don't have any documentation
13 or any numbers for you as to specific equipment.

14 Q. Okay.

15 A. All the equipment was numbered so...

16 Q. Let's talk about the refrigeration
17 plant.

18 A. Okay.

19 Q. Why don't you describe for me the
20 damage to the refrigeration plant as a result of
21 the 1993 bombing?

22 A. The primary damage, it turned out
23 that the truck was parked directly above the
24 refrigeration plant. The slab that the truck
25 was parked on was the ceiling of the

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2 refrigeration plant. So when the bomb went off
3 and the ceiling collapsed, and the debris that
4 fell down, the concrete, the structural steel,
5 the reinforcing bars, the cars, landed on the
6 refrigeration machinery and damaged all the
7 electrical switch gear, a lot of the smaller
8 piping, some of the larger piping.

9 There were some major dents in the
10 main refrigeration machine vessels, and of
11 course, dirt and debris all over everything.
12 Some of the chilled water circulation pumps were
13 destroyed and one of the main motors on one of
14 the big refrigeration machines was pretty much
15 burned up by a car that landed on it and burned.

16 Q. I'll stop you there for a minute.
17 You referred to main refrigeration machine
18 vessels. Are those also known as chillers?

19 A. Yes.

20 Q. How many chillers were in the
21 refrigeration plant at the time of the 1993
22 bombing?

23 A. Seven.

24 Q. Can you describe for me the damage to
25 each of those seven chillers?

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2 A. Sure. If we had a drawing of the
3 refrigeration plant, it might be helpful. If
4 you do have that on hand, it would be --

5 Q. We'll see if we can locate something.

6 A. Okay. Well, let's just talk
7 figuratively. The refrigeration plant was on
8 the B5 level. There were seven main chillers.

9 Q. Let's try referring to page 194763 in
10 Exhibit 34.

11 A. No, that's not --

12 Q. Not helpful?

13 A. That gives you the real -- we'll work
14 with that. You see the room is basically a
15 rectangle?

16 Q. Yes.

17 A. Okay. On the near side --

18 Q. Nearest to the bottom?

19 A. Yes, nearest to the bottom, there
20 were four refrigeration machines adjacent to one
21 another, side by side across the room.

22 Q. Why don't you draw those in?

23 A. You want me to use a black pen?

24 Q. Yes, if you could use the black pen.

25 Actually, I take it back. Why don't you use a

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2 blue pen? I think it will show up better on a
3 black and white drawing.

4 A. Okay. They were -- like I said, all
5 equipment was numbered. You have refrigeration
6 machine 1, refrigeration machine 2 -- excuse me,
7 it is the other way. Refrigeration machine 1,
8 2, 3 and 4. And then on the other side of the
9 room, 5, 6, and 7.

10 Q. Okay.

11 A. Each machine being pretty much
12 identical. All York Centravac chillers, 7,000
13 ton capacity, 7,000 horsepower motors. And they
14 would be used to produce chilled water for
15 circulation to the HVAC units throughout the
16 complex.

17 Q. Can you go ahead and put numbers on
18 those so to the extent we talk about specific
19 ones, the record will indicate which ones we're
20 talking about?

21 A. (Witness complying.)

22 Q. You were going to go ahead and
23 describe the damage.

24 A. As I said, the truck with the bomb
25 was parked against the south face of Tower 2,

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2 which as you can see is the line --

3 MR. STICKELMAN: Is this Tower 1?

4 THE WITNESS: Yes.

5 MR. STICKELMAN: You said Tower 2.

6 THE WITNESS: Oh, I'm sorry. It says

7 Tower A here, okay?

8 A. Let's say the north side of the room.

9 Q. Um-hum.

10 A. The plant was divided into two sides,
11 the high zone and low zone.

12 Q. High zone being north?

13 A. No, the -- due to the height of the
14 towers, and the weight of a column of water, if
15 you have a column of water that's a quarter mile
16 high, 1360 feet, that column of water exerts a
17 pressure of a half pound per foot and height.

18 So if we have a 1360 foot column of
19 water, the pressure at the bottom, static
20 pressure at the bottom is half of 1362, which
21 would be what? 630 pounds, 631 pounds. So just
22 the weight of that column of water is 630 psi;
23 that's the amount of pressure that that water
24 exerts.

25 So in order to move water up to that

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2 height, you have to exert a pressure on that
3 water greater than the 631 pounds, okay? So in
4 that case, you have to design the equipment to
5 be able to withstand those pressures.

6 So the equipment on the north side of
7 the room serviced the area of the towers, it
8 serviced the 75th and the 108 mechanical rooms.
9 So that equipment was built to withstand the
10 pressure, the working pressure was 750 psi.

11 So the internal and the piping and
12 the vessels were different than the machinery on
13 the south side of the room, which we called the
14 low zone equipment.

15 Q. South side was low zone, north was
16 high zone?

17 A. High zone, right.

18 Q. Okay.

19 A. And the low zone equipment serviced
20 those mechanical rooms lower than the 41st
21 floor. So it did not need to withstand those
22 high pressures. That was built for a working
23 pressure of about 250 psi.

24 So the piping in the tubes and the
25 shells were considerably thinner. When I say

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2 shells, I mean the pressure vessels of the
3 chillers.

4 Q. And you're going to describe the
5 damage to those.

6 A. Okay. In the high zone equipment,
7 machines 6 and 7, which were directly below the
8 point where the truck was parked, received more
9 damage --

10 (Brief interruption.)

11 Q. You were saying --

12 A. Machines 6 and 7 were the most
13 heavily damaged in that some of the large
14 diameter piping on 7 was sheared off, we're
15 talking about 20 inch pipes, was broken off by
16 structural steel falling across it. So that
17 created some damage to the water box.

18 Q. When you say sheared off, do you mean
19 that it was actually breached?

20 A. Broken, just broken, snapped off.
21 And that caused some major damage to the water
22 box section on the condenser. All the
23 interconnecting piping on number 7 between the
24 refrigeration compressor and the condenser and
25 evaporator vessels, if we take -- can I write on

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2 the back of this?

3 Q. Sorry?

4 A. Can I write on the back of this?

5 Q. No. We'll give you something else.

6 A. Let's say you have a compressor and
7 then you have a condenser and an evaporator, so
8 if you were standing on the floor looking at
9 these machines endwise, you would have a
10 compressor and then you have the condenser and
11 evaporator vessels next to it.

12 Of course these machines were huge; I
13 guess the vessels were in excess of 30 feet
14 long. And the entire assembly of the entire
15 equipment was probably about 20 feet high, quite
16 large.

17 So between the compressor, the
18 evaporator and the condenser, there's piping,
19 all kinds of interconnecting piping for
20 lubrication, for refrigerant transfer, for water
21 transfer, and all that piping on machines 6 and
22 7 were badly damaged.

23 Q. So 6 and 7 could not operate without
24 that piping, is that correct?

25 A. That's correct.

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2 Q. I think you were talking in
3 particular there about the damage to 7. Was the
4 same kind of damage caused to machine 6?

5 A. No. Machine 6 had different damage,
6 but no less -- again it was incapacitated. And
7 also there was auxiliary equipment around those
8 machines, such as control panels and electrical
9 switch gear distinctive to each machine. Each
10 machine had a control panel, each machine had
11 electrical switch gear, and those were totally
12 destroyed.

13 Q. Could any individual machine operate
14 if its control panel had been destroyed?

15 A. No.

16 Q. Go on.

17 A. So 6 and 7 were very badly damaged.
18 Machine 5 to a lesser extent. Machine 4 to a
19 lesser extent. Machine 3 was badly damaged.
20 That was the one whose motor was burned up in a
21 fire by a car that had landed on top of it and
22 the motor needed to be replaced.

23 Q. The motor of --

24 A. Machine number 3. And the electrical
25 switch gear and control panel also for machine

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2 number 3, the electrical switch gear for number
3 2.

4 So as we're looking here, in the
5 center of the room was where the most damage
6 was, and the further you got from the center of
7 the room, although the machines were damaged,
8 they were less damaged. So the major damage was
9 machines 2, 3, 6 and 7.

10 Q. What about machine 1?

11 A. Machine 1 received some damage, but
12 not as extensive as the other four.

13 Q. Was it operational?

14 A. It was operational in short order.

15 Q. How short?

16 A. April or May. The blast was February
17 26, so it was brought back pretty quick.
18 Likewise 4 and 5 were operational pretty
19 quickly.

20 Q. How quickly?

21 A. Shortly after number 1. So if we're
22 talking, what did I say, April or May for 1,
23 May -- say April, May for 1 and May for 4 and 5.

24 Q. And 2 and 3? Let's start with 2.

25 A. 2 and 3 and 6 and 7 all followed. As

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2 I have stated, we had a pretty large crew from
3 York International, the machine's supplier, and
4 they had a lot of expertise. They had a lot of
5 parts on quick notice and they did a fantastic
6 job. And by the end of the season, all seven
7 machines were operational.

8 Q. When you say the end of the season,
9 what do you mean?

10 A. You know, like when we're getting
11 into August.

12 Q. So --

13 A. The peak loads in the building were
14 at the end of the summer. When you get to the
15 dog days of August and early September is when
16 the high humidity, high temperature days would
17 demand, have the most demand for cooling.

18 And as I had said, each one of the
19 machines was rated at 7,000 tons which gives us
20 a total of 49,000 tons of refrigeration
21 capacity. And the calculated load, calculated
22 maximum average load would be about 21,000 tons.

23 Q. So am I understanding you correctly
24 that the repair to the chiller unit was
25 completed in August?

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2 MR. STICKELMAN: Objection to the
3 form.

4 A. Round about. I can't, you know, I may
5 be off by days or weeks, but that's as I recall.

6 Q. Was there a main control panel from
7 which you could operate all of the chillers, all
8 seven?

9 A. No. Each chiller had its independent
10 control panel.

11 Q. So each chiller was able to
12 operate --

13 A. It was a stand-alone unit.

14 Q. So when you repaired, when you
15 repaired machines 4 and 5, which I believe you
16 indicated had to be repaired?

17 A. I think 1, 4 and 5, all this repair
18 was going on simultaneously. It didn't go from
19 machine to machine. We had a group of people in
20 there working on all machines at the same time.

21 Q. So those chillers were operational in
22 April or May?

23 A. I'm guessing. I could be wrong.

24 Q. I understand.

25 A. But as I recall it. Let me say that

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2 we built the refrigeration plant on the street
3 to cool the complex and we never used it because
4 we were able to operate the main chiller plant
5 to cool the entire complex throughout that
6 entire summer.

7 So when I said that the peak demand
8 was 21,000 tons, and I'm telling you that we,
9 throughout that season, that cooling season, we
10 always had available 21,000 tons of
11 refrigeration, which would be three machines.

12 Q. Okay. Am I understanding you
13 correctly that none of the machines was
14 operational before the time you're estimating,
15 in approximately late April or May?

16 MR. STICKELMAN: Objection to the
17 form.

18 A. As I remember it, and it's been a
19 while, but yes.

20 Q. Were these chillers designated to
21 serve particular areas of the complex, or was
22 each chiller able to serve the complex as a
23 whole?

24 A. As we had just spoken briefly, as you
25 went down the center of the room, north to

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2 south, chillers 1, 2, 3, 4 would serve all areas
3 below the 41st floor and chillers 5, 6, 7 would
4 serve all of those areas above the 41st floor.

5 Q. For both towers?

6 A. Yes. Any chiller in its zone was
7 interchangeable. So 1, 2, 3 and 4, 1 would do
8 the job of 2 would do the job of 3 would do the
9 job of 4. And on the other side, 5, 6 and 7,
10 with some caveats.

11 There were special -- machine number
12 7 was a special dual evaporator machine. It was
13 built to serve both the high and the low zones.
14 It was a special arrangement where instead of
15 just a single evaporator like this, all right,
16 you had an additional evaporator, which would
17 serve the low zone.

18 Q. So chiller 7 was effectively able to
19 serve the entire complex?

20 A. That's correct. At periods of low
21 load, chiller number 7 could handle the entire
22 complex by itself. And then also chiller 4 and
23 5 had dual drive lines which means that they had
24 two compressors; chiller 4 had two compressors
25 and chiller 5 had two compressors.

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2 Much as we have the same arrangement
3 here, where we have evaporators side by side,
4 what we have here is compressors side by side,
5 one a 7,000 ton capacity and one a 2500 ton
6 capacity. So that when you had a low load
7 condition, you could economize by running the
8 smaller compressor. When you didn't have a
9 7,000 ton demand, let's say you had a 2,000 ton
10 demand, you would put on the smaller compressor
11 and save money.

12 Q. So again, chillers 4 and 5 were
13 designed so that when that low load situation
14 occurred, those chillers could serve the entire
15 complex?

16 MR. STICKELMAN: Objection to form.

17 A. In their own zone. Chiller 4 would be
18 low zone; chiller 5 would be high zone; and as
19 we said, chiller 7 would be both zones. So you
20 had a lot of flexibility in deciding which
21 equipment to run to serve the particular zone,
22 either high or low.

23 But all low zone chillers would
24 service the same equipment, and all high zone
25 chillers would service its own distinct set of

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2 equipment.

3 Q. Do you know how much it cost to carry
4 out the repairs to the refrigeration equipment?

5 MR. STICKELMAN: Only if you know.

6 A. Approximately \$7 million.

7 Q. And that \$7 million was spent on the
8 refrigeration equipment only, am I understanding
9 you correctly?

10 A. Correct. That does not involve
11 anything with the structure, the ceilings, the
12 walls, lighting, cranes that were rebuilt. This
13 equipment was very large and there were cranes
14 in the ceiling to be able to take it apart. It
15 doesn't include that. Work platforms to be able
16 to stand on the equipment and do that.

17 \$7 million was just for the chillers
18 themselves. A lot more money was spent in that
19 room, but just for the chillers themselves, 7
20 million.

21 Q. Did that 7 million include labor
22 costs?

23 A. Yes. It was primarily labor.

24 Q. Do you know how much money it took to
25 repair all of the damage caused to the property

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2 of the World Trade Center complex as a result of
3 the 1993 bombing?

4 A. No.

5 Q. Do you know how much money was spent
6 in that room, as you described it?

7 A. No.

8 Q. Do you have any more information
9 about the costs it took to make any repairs as a
10 result of the 1993 bombing?

11 A. As a private citizen I had heard some
12 numbers, and I heard anywhere between 350 and
13 \$500 million. That's not from anything that
14 anybody in the Port Authority told me; this is
15 just from reading the papers.

16 Q. Do you have any other information
17 about the kind of damage that was caused --
18 strike that.

19 You mentioned smoke damage that was
20 caused as a result of the 1993 bombing. Can you
21 tell me what you know about that kind of damage?

22 A. When the bomb went off, it breached a
23 lot of the elevator shafts at the lower levels,
24 and which were CMU walls, concrete masonry unit
25 walls, and that allowed smoke from the fires in

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2 the subgrade to go up the elevator shafts like
3 chimneys. And there was smoke on a lot of the
4 floors.

5 Q. In both towers?

6 A. Everywhere, everywhere. And there
7 was, you know, if you went into your office
8 following the bombing, there would be soot on
9 the walls, the furniture, the desks, the papers,
10 everything.

11 Q. Do you know how much time it took to
12 repair the smoke damage?

13 MR. STICKELMAN: If you know.

14 A. It took about three weeks, I believe,
15 to clean up -- they brought in armies of people,
16 cleaners, and worked around the clock. And I
17 believe we had tenants back in about three weeks
18 in Tower 1.

19 Q. Do you know how much money that cost?

20 A. I do not.

21 Q. Do you know how long it took to
22 repair the totality of the damage caused by the
23 1993 bombing?

24 MR. CHEUNG: Objection, asked and
25 answered.

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2 A. Let me just say -- let me just say
3 that as of 2001, there were still things that
4 were damaged, not badly damaged, but I mean
5 stuff that probably would have been repaired in
6 the future, cracked walls.

7 Q. Anything else?

8 A. You know, doors here and there that
9 had been sprung or busted, you know, things that
10 were not necessarily to secure things, but you
11 know these were things that were still in the
12 process of repair.

13 Q. I understand. Anything else
14 specifically you can remember?

15 A. No.

16 Q. Do you know if there was a fire at
17 the World Trade Center as a result of the 1993
18 bombing?

19 A. There were a lot of fires.

20 Q. Do you know how long they lasted?

21 A. I do not.

22 Q. Do you know if there was damage to
23 the fire protection system as a result of the
24 1993 bombing?

25 MR. STICKELMAN: Objection, lack of

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2 foundation.

3 A. No, I don't.

4 Q. Do you know if there was -- forgive
5 me if this is repetitive. Do you know if there
6 was damage to the sprinkler system as a result
7 of the 1993 bombing?

8 A. In certain areas, yes.

9 Q. Can you describe what you know about
10 that damage?

11 A. Where the floors collapsed, in the
12 vicinity of the bomb crater, of course when that
13 concrete and steel came down, the sprinkler
14 pipes that were tied into that came down with
15 it. But those were small diameter lines.

16 Q. What did you -- sorry. Do you know
17 what was done to control that damage immediately
18 after the bombing?

19 MR. STICKELMAN: Objection to the
20 form of the question.

21 A. No.

22 Q. Do you know if the sectionalizing
23 valves were accessed as part of the repair to
24 that sprinkler system?

25 A. I don't know.

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2 (Discussion off the record.)

3 MS. GIFFIN: I think we are at a good
4 point for lunch. Can we make it a very
5 short lunch? I'd like it as short as we can
6 do it, so let's keep it under a half hour so
7 we can get out of here as efficiently as
8 possible.

9 THE VIDEOGRAPHER: The time is 12:28
10 p.m. and we're going off the record.

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2 A F T E R N O O N S E S S I O N

3 (Time noted: 1:00 p.m.)

4 D E N N I S M A L O P O L S K I,

5 resumed and testified as follows:

6 EXAMINATION (Cont'd.)

7 BY MS. GIFFIN:

8 THE VIDEOGRAPHER: We're now going on
9 the record. The time is 1:02 p.m.

10 Q. Mr. Malopolski, I have just a few
11 follow-up questions from this morning. We were
12 talking about, at one point, we were talking
13 about your responsibilities in the time from
14 1993 until approximately two years before the
15 lease.

16 And you had said that you were
17 responsible for coordinating with the Fire
18 Department of New York regarding whether or not
19 sectionalizing valves would need to be accessed,
20 is that correct?

21 MR. STICKELMAN: Objection,
22 mischaracterizes his prior testimony.

23 A. I don't recall stating that. Before
24 we go on, can I just interject something?

25 Q. Sure.

1 Malopolski - Confidential

2 A. When we spoke before about how long
3 the repair to the refrigeration plant took, I
4 don't know for sure, but as I think about it, I
5 think I was too optimistic in when it was all
6 finished.

7 So it probably took a lot longer, in
8 terms of maybe a month or two or three; I'm not
9 sure. Without my daily calendar, I really can't
10 say. But I said it was all done by that summer
11 and I believe I misspoke, but I can't tell you
12 when.

13 Q. So some of the work continued on into
14 the fall?

15 A. Yes.

16 Q. And can you give me any sort of
17 estimate about --

18 A. I wish I could. I wish I could, but
19 I can't. I have just a personal thing with
20 dates and time span. I write everything down in
21 a date book, and without that, I don't know. I
22 really don't know.

23 Q. Was that date book destroyed on
24 September 11th?

25 A. Yes, yes.

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2 Q. Thank you for clarifying.

3 A. So the actual dates were probably
4 recorded somewhere, and that could probably be
5 found, but I can't tell you. So I'm sorry.

6 Q. No, that's fine. Thank you for
7 clarifying that. I appreciate it.

8 Returning back to the question I had
9 started to ask, am I correct that during this
10 time period, 1993 until two years prior to the
11 net lease, did you have responsibility for
12 coordinating with the Fire Department of New
13 York in connection with a fire?

14 MR. STICKELMAN: Objection.

15 A. From a mechanical standpoint, yes.

16 Q. And did you have responsibility for
17 coordinating with the Fire Department of New
18 York specifically as to the sectionalizing
19 valves?

20 A. If they would have asked for it to be
21 shut off, then yes, I would have been involved.

22 MR. CHEUNG: Objection to the form.

23 Q. You would not have shut off
24 sectionalizing valves without consulting with
25 the Fire Department of New York, correct?

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2 A. Correct.

3 MR. CHEUNG: Objection to form.

4 Q. And you would do so at their
5 direction, correct?

6 A. That's correct.

7 Q. You said that during the same time
8 period, it was your responsibility in case of a
9 fire to go to the fire control center, correct?

10 A. Correct.

11 Q. Which one?

12 A. It depended where the incident would
13 be.

14 Q. So --

15 A. As I said, there were four different
16 ones, so if the incident was in 5 World Trade
17 Center, 5 World Trade Center would be where we
18 would report; or 4, 4; 1, 1; 2, 2.

19 Q. You mentioned there was someone who
20 was fire safety director?

21 A. Yes.

22 Q. Was it also his or her responsibility
23 to go to that same fire command center?

24 MR. CHEUNG: Objection.

25 A. I don't know what his responsibilities

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2 were.

3 Q. Mr. Malopolski, were you personally
4 involved with the decision to lease the World
5 Trade Center to the Silverstein entities?

6 A. No.

7 Q. Am I correct that you had no
8 involvement in the property insurance placement
9 with regard to the World Trade Center after the
10 net lease?

11 A. That's correct.

12 Q. And am I correct that you've never
13 personally had any communications with or about
14 Industrial Risk Insurers with respect to the
15 World Trade Center?

16 A. That's correct.

17 Q. And you've never -- am I also correct
18 that you have not had any communications with
19 any specific insurance company with respect to
20 the World Trade Center property placement?

21 A. Only in the parts that we talked
22 about, where I was giving information to
23 Mr. Hickey who I believe was a representative of
24 groups of insurers or underwriters. That was my
25 total involvement as far as insurance matters

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2 were concerned.

3 Q. Aside from Mr. Hickey, you didn't
4 provide information to insurance companies?

5 A. There were other people that
6 Mr. Hickey brought from time to time.

7 Q. Do you remember who those people
8 were?

9 A. I'm sorry, I don't.

10 Q. Now, we talked at your last
11 deposition about the drawings that you provided
12 to Mr. Hickey, and we talked some more about
13 those today.

14 Aside from those drawings, did you
15 provide other kinds of information to
16 Mr. Hickey?

17 MR. STICKELMAN: Objection, asked and
18 answered.

19 A. I provided him with everything he
20 asked for. And I really don't have a
21 comprehensive list in my mind of all that stuff,
22 but whatever he wanted, that's what I gave him.
23 But primarily it was concerning, you know, the
24 stuff that we talked about here.

25 Q. Sitting here today, can you remember

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2 anything else that you provided to Mr. Hickey,
3 aside from what we've talked about either today
4 or in your prior deposition?

5 A. I'm not sure whether I gave him -- at
6 this time, we were transferring a lot of
7 documents about a lot of information to a lot of
8 people, and I don't know whether he got a roster
9 of routines, which would be the maintenance
10 procedures that were performed by the mechanical
11 group, or not.

12 I know that I gave rosters of
13 routines to more than one person, and whether
14 one of those people was Mr. Hickey, I'm not
15 really sure.

16 Q. Can you tell me a little bit more
17 about what a roster of routines is?

18 A. In order to track maintenance and
19 perform it in an organized fashion, there's a
20 book which lists what is supposed to be done to
21 what equipment, with what frequency. And that
22 is all written down as a roster of routines.
23 And from that roster of routines, we generate
24 work orders and we perform preventive and
25 preemptive maintenance.

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2 Also, you know, things that have to
3 be done according to code, according to
4 manufacturers' recommendations, in a periodic
5 fashion would be listed so that we wouldn't miss
6 it. You know, if something had to be done every
7 month, this roster of routines would pop up with
8 a work order.

9 It was a computerized list and it
10 would say, okay, it's September 1st, you have to
11 do this; and then October 1st, you have to do it
12 again; and November 1st, you have to do it
13 again. So this would be a tool to perform
14 maintenance on all the equipment in the complex.

15 Q. And who created the roster of
16 routines?

17 A. That would be the Port Authority
18 engineering department.

19 Q. Was that something that fell into
20 your area of responsibility?

21 A. I was -- no, I didn't create it. I
22 would use it as a tool. It would be given to me
23 and I would use it in order to assure that
24 maintenance was performed in a correct manner,
25 in a timely manner.

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2 Q. Did that roster of routines exist in
3 hard copy as well as this computer form?

4 A. Yes.

5 Q. In what format was it in hard copy?

6 A. It would be like a fan-fold, you
7 know, someone would hit a button on a computer
8 and it would print the whole thing out in one
9 long sheet, you know, the green and white bar
10 stuff that fan-folded, so you would have that
11 all there and it would be in a binder.

12 Q. Where was that binder kept?

13 A. In a whole lot of places, in the
14 contractor's office, in my office. Alan Reiss
15 probably had a copy. It was everywhere that
16 anybody would want to see it. It was probably
17 in the building service office, you know, where
18 they took calls for complaints and whatnot. So
19 it was widely distributed.

20 Q. Do you know if that roster of
21 routines was maintained after the lease?

22 A. I don't know.

23 Q. Do you know if a copy of that roster
24 of routines, as it existed on July 24th, 2001,
25 still exists?

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2 A. I don't know.

3 RQ MS. GIFFIN: Let me put a request on
4 the record to the extent that that document
5 does still exist, we would like to see it.

6 MR. STICKELMAN: Your request is under
7 advertisement. I think I know it's --

8 Q. Did that roster list off maintenance
9 that had to be performed throughout the entire
10 World Trade Center complex?

11 A. Yes. It would list all of the
12 mechanical equipment in the complex.

13 Q. Would it also list structural repairs
14 that were necessary, if any, on a regular basis?

15 A. Not in my roster. There would be a
16 separate roster for that, and there would also
17 be a separate roster for electrical.

18 Q. Anything else besides mechanical,
19 electrical and structural that a roster of
20 routines would be produced for?

21 A. Beyond that, I don't know.

22 RQ MS. GIFFIN: We would request copies
23 of any of those that exist.

24 Q. Sitting here today, do you remember
25 any other documents that you provided to John

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2 Hickey?

3 A. None that I can think of.

4 Q. Did you have direct communications
5 with Mr. Hickey? That is, did you talk to him
6 either in person or on the telephone?

7 A. Yes.

8 Q. Was there any information that you
9 can recall imparting to him outside of the
10 information that we've already discussed?

11 A. We walked around frequently. We
12 would spend entire days, maybe several days in a
13 week, you know, roaming about the Trade Center.
14 And of course, we'd talk like people talk.

15 Q. In the course of those discussions,
16 did Mr. Hickey discuss with you anything
17 regarding property insurance for the World Trade
18 Center?

19 A. No. It would be more of a small talk
20 nature about, you know, what the kids were up
21 to, and who went to school where, that type of
22 thing, you know, normal, friendly discourse.

23 Q. Were you aware that Mr. Hickey was
24 gathering information about the World Trade
25 Center in connection with the property insurance

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2 program?

3 A. Yes.

4 Q. In the course of your communication,
5 did you ever discuss the kinds of risks at the
6 World Trade Center site Mr. Hickey might have
7 been concerned with?

8 MR. STICKELMAN: Objection to form.

9 MR. CHEUNG: Objection.

10 A. Yes.

11 Q. Can you tell me about that, please?

12 A. We had discussed several times, you
13 know, the possibility of a terrorist attack.

14 Q. And what exactly did you discuss?

15 A. Of course we discussed 1993. And we
16 discussed things that we had done following the
17 first bombing to improve our situation,
18 regarding, you know, protection against another
19 attack.

20 Q. Was Mr. Hickey concerned about the
21 possibility of a future terrorist attack at the
22 World Trade Center?

23 MR. CHEUNG: Objection to form.

24 MR. STICKELMAN: Objection to form.

25 A. I don't know. We never discussed it.

1 Malopolski - Confidential

2 I don't know what he thought.

3 Q. You discussed the possibility of a
4 terrorist attack?

5 A. Oh, sure.

6 Q. Did Mr. Hickey indicate to you that
7 insurance companies would be concerned about
8 that possibility?

9 A. I would imagine that we did talk
10 about that.

11 Q. And did he request information from
12 you with regard to the 1993 bombing in
13 connection with that concern?

14 A. I don't recall.

15 MR. CHEUNG: Objection.

16 A. I don't recall that we transmitted any
17 documents. I think it was more on just a, you
18 know, boy, this happened once, you know, gee, it
19 could happen again, and what's happened in
20 between.

21 Q. You said that you talked with him
22 about the things you've done to improve the
23 situation, correct?

24 A. Yes.

25 MR. STICKELMAN: Objection.

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2 Q. Can you tell me what you told him?

3 A. Oh, sure. I told him that, you know,
4 since that time, we put in the -- and of course,
5 as we walked around, we would see some of these
6 things, like emergency lighting in stairs that
7 was battery powered, photoluminescent paint on
8 signs and stairs that would glow in the dark, if
9 we were in total darkness.

10 You know, ring the perimeter with
11 concrete barriers to prevent anyone from driving
12 a bomb right up into the building, that sort of
13 thing. The fact that, you know, just the fact
14 that it was, for him to get into the place, he
15 had to call me first and I had to meet him and
16 then take him to the desk and sign him in, that
17 type of thing.

18 The new security stuff. The
19 turnstiles that we put in so that only people
20 with the proper identification could access, you
21 know, the nonpublic areas. The fact that, you
22 know, all deliveries were searched and every
23 truck driver that came in had to have a bill of
24 lading and have his drivers license and his face
25 photographed, and that type of thing. You know,

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2 the pop-up barriers that we put at all the ramps
3 to the subgrade to prevent someone from driving
4 a bomb in at high speed; that type of thing.

5 Q. Did you provide a document in
6 connection with that?

7 A. No.

8 Q. Did Mr. Hickey request information
9 from you about the damage that was caused to the
10 World Trade Center as a result of the 1993
11 bombing?

12 A. I don't recall.

13 Q. Did Mr. Hickey --

14 A. Documentation. I don't know whether
15 we talked about it, but I know that I didn't
16 give him any particulars about, you know, as far
17 as documentation, you know, how much repairs
18 cost and what the repairs were. No. If it did
19 come up, it was just in conversation.

20 Q. So did you ever describe for him the
21 kind of damage that was caused?

22 A. I don't recall.

23 Q. Did you ever describe for him the
24 time it took to repair the building?

25 A. I don't believe so. It wasn't

1 Malopolski - Confidential

2 discussion in depth.

3 Q. Can you recall any other
4 conversations, communications you had with
5 Mr. Hickey about risks he was concerned about at
6 the World Trade Center?

7 A. No.

8 Q. Can you recall any other subjects
9 that you discussed with Mr. Hickey at that time
10 with regard to the World Trade Center?

11 MR. CHEUNG: Objection.

12 MR. STICKELMAN: Objection to form.

13 A. In what context? You know, we talked
14 about what I said we talked about, and we made
15 small talk. But beyond that, what do you mean?

16 Q. I'm just trying to determine if
17 there's anything else you can remember besides
18 what we've already discussed?

19 A. No.

20 Q. I might have asked you this before,
21 but just so I'm clear, do you recall providing
22 that kind of information to anyone else besides
23 Mr. Hickey in connection with the lease of the
24 World Trade Center?

25 MR. CHEUNG: Objection to form.

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2 A. What kind of information?

3 Q. Any of the subjects that we
4 discussed, the drawings or discussions about
5 terrorism, any of that?

6 MR. CHEUNG: Objection to form.

7 A. With Charles Magee, with Chi Chu.
8 That's pretty much the contacts that I had with
9 the Silverstein organization.

10 Q. Did you have conversations with Chi
11 Chu about the risk of terrorism at the World
12 Trade Center?

13 A. No.

14 Q. And Mr. Magee, is he with Silverstein
15 or is he --

16 A. He was with Silverstein. He died in
17 the attack.

18 Q. Did you have communications with him
19 about the risk of terrorism at the World Trade
20 Center?

21 A. No.

22 Q. Was there any information you
23 provided to either Mr. Magee or Mr. Chu, aside
24 from that which you have already described
25 having provided to Mr. Hickey?

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2 A. No. The thrust with Chi Chu and
3 Charles Magee was of an entirely different
4 nature. It was more about the day-to-day
5 operations of the facility, and it would be more
6 on a, to tap my expertise in the mechanical
7 vein.

8 Q. And in the course of those
9 conversations or communications, did you come to
10 any understanding of how the Silverstein
11 entities intended to operate the buildings
12 day-to-day?

13 MR. CHEUNG: Objection to form.

14 MR. STICKELMAN: Objection.

15 A. No.

16 Q. Are you familiar with a document
17 called the reciprocal easement and operating
18 agreement?

19 A. No.

20 MS. GIFFIN: Let me introduce as the
21 next exhibit a document Bates stamped
22 PORT/SRI 070012.

23 (Malopolski Exhibit 47, document
24 bearing Bates Nos. PORT/SRI 070012, marked
25 for identification, as of this date.)

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2 Q. And let me know when you've had a
3 chance to look at that?

4 A. Okay.

5 Q. Have you seen this document before,
6 sir?

7 A. I believe so. It was an email, and
8 the distribution list is to all World Trade
9 Department. And I kind of remember seeing it.

10 Q. Were you a part of the World Trade
11 Department on July 22nd, 2001?

12 A. Yes.

13 Q. And that's the date of this email,
14 correct?

15 A. That's correct.

16 Q. And it's an email from Alan Reiss,
17 correct?

18 A. That's correct.

19 Q. Do you have any reason to believe you
20 didn't receive this email on or about July 22nd,
21 2001?

22 A. No.

23 Q. I'd like to draw your attention to
24 about the middle of the second paragraph.
25 There's a sentence that starts with "It is not

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2 there yet though. Saturday night I read 285
3 pages of the latest draft reciprocal easement
4 and operating agreement." Do you see that
5 sentence?

6 A. Yes, I do.

7 Q. Does reading that sentence refresh
8 your recollection as to what the reciprocal
9 easement and operating agreement was?

10 A. I can make inferences, but I have
11 never seen the document and I don't know what it
12 is, but from the title I can surmise what it is.

13 Q. Mr. Reiss appears to be discussing
14 this document with everyone on the World Trade
15 Department distribution list?

16 A. Yes.

17 Q. Do you recall having any other
18 communications with Mr. Reiss about the
19 reciprocal easement and operating agreement?

20 MR. STICKELMAN: Objection to form.

21 MR. CHEUNG: Objection to form.

22 A. No. See, Alan is a very detail
23 oriented person and, you know, he would refer to
24 this document. To me, it's a legal term, and 99
25 percent of us wouldn't see it or know what the

1 Malopolski - Confidential

2 reciprocal easement and operating agreement was,
3 other than the fact that it was a document
4 transferring the, you know, the ownership of the
5 property.

6 MR. STICKELMAN: If you don't know
7 what the REOA is --

8 A. I don't know what it is, but I'm not a
9 dummy and you know, I could kind of --

10 Q. That much is clear.

11 A. So I can kind of figure it out, but I
12 don't know anything about it.

13 Q. Okay. The last sentence of this
14 paragraph states, "It is what will govern how
15 the complex is operated for the next 99 years as
16 one integrated facility, and defines the
17 business relationship between everyone for
18 operating and capital expenditures, and what
19 will happen if there is a casualty." Do you see
20 that sentence?

21 A. I do.

22 Q. Have I read that correctly?

23 A. Yes.

24 Q. Did you have an understanding that
25 the World Trade Center complex was to be leased

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2 to the -- strike that, to the Silverstein
3 parties and operated as one integrated facility?

4 MR. STICKELMAN: Objection to form.

5 A. That's what I believe.

6 MS. GIFFIN: Let me introduce as the
7 next exhibit a document Bates stamped SILV
8 32-002640, with two pages following it that
9 are Bates stamped SILV 32-003003, to 003004.

10 (Malopolski Exhibit 48, document
11 bearing Bates Nos. SILV 32-002640, 003003
12 and 003004, marked for identification, as of
13 this date.)

14 Q. Do you have that document, sir? Let
15 me represent to your counsel that this
16 represents an excerpt of the reciprocal easement
17 and operating agreement, and I'm going to ask
18 you questions not about the cover page but about
19 the pages in there.

20 So when you've had a chance to review
21 that, let me know.

22 MS. GIFFIN: 48.

23 MR. STICKELMAN: Yes, 48.

24 A. Okay.

25 Q. Let me just briefly go back on what I

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2 said. Does looking at the first page of this
3 document refresh your recollection in any way as
4 to what the reciprocal easement and operating
5 agreement was?

6 A. I have never seen it. And the only
7 knowledge I have of it is being referred to in
8 this first email, Exhibit 47.

9 Q. Thank you. Referring now to the
10 second two pages of Exhibit 48, have you seen
11 these two pages before?

12 A. No.

13 Q. This appears to be a list of common
14 building systems, correct?

15 A. Yes.

16 MR. CHEUNG: Objection to the form.

17 Q. Having reviewed this list, is it your
18 understanding that these are in fact common
19 building systems to the World Trade Center
20 complex?

21 A. Yes.

22 MR. STICKELMAN: Objection to the
23 form.

24 MR. CHEUNG: Object to the form.

25 Q. Number 2 on this list refers to "HSQ

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2 building control system," and then states,
3 "This is a centralized monitoring/control system
4 installed at the operations command center." Do
5 you see that?

6 A. Yes.

7 Q. Do you have an understanding of what
8 is being referred to by HSQ building control
9 system?

10 A. Yes.

11 MR. CHEUNG: Objection to form.

12 Q. Can you tell me about that, please?

13 A. HSQ is the name of a contractor that
14 provided the system, and it was a software-based
15 monitoring system which was tied in with various
16 sensors throughout the property to monitor the
17 points that are referred to further down in the
18 paragraph, and to give information back to a
19 central point or to any points which were
20 permitted access to this loop.

21 Q. So this system was gathering
22 information on the World Trade Center complex
23 and reporting it back to the operation command
24 center?

25 A. Yes.

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2 Q. And this is characterized as a common
3 building system?

4 MR. CHEUNG: Objection to form.

5 A. Yes.

6 Q. Similarly, number 4 refers to the
7 subterranean river water pump station as a
8 common building system?

9 A. Yes.

10 Q. Is that an accurate description of
11 that river water pump station?

12 A. Yes.

13 MR. CHEUNG: Objection to form.

14 Q. And similarly, the condenser water
15 systems are referred to as common building
16 systems?

17 (Discussion off the record.)

18 Q. And similarly, the condenser water
19 systems are listed as common building systems,
20 correct?

21 A. Correct.

22 Q. And that's an accurate description of
23 where they were located prior to September 11th?

24 A. It's a very sketchy description. The
25 system was extensive; it went throughout the

1 Malopolski - Confidential

2 entire complex. So to say that the condenser
3 water system is located on the B3 and B4 levels
4 does not capture the entire scope of that
5 system.

6 Q. Do you know what part of the
7 condenser water system was located on the B3 and
8 B4 level?

9 A. Yes.

10 Q. What part?

11 A. The main heat exchange portion was
12 located on the B3 and B4 level. The river water
13 from the Hudson River that was pumped by the
14 river water pump station was at that location
15 exchanged with water that was circulated
16 throughout the complex, which was sold to
17 tenants to cool their individual refrigeration
18 compressors that they may have installed for
19 computer rooms or conference rooms.

20 Q. Similarly, the domestic water system
21 is referred to as a common building system,
22 correct?

23 A. Yes.

24 Q. And is that an accurate description
25 of that common system?

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2 MR. CHEUNG: Objection to form.

3 A. Yes. These are all very brief
4 descriptions of the systems. They, of course,
5 are very extensive, but I guess what they're
6 trying to get through here is just the portion
7 that could not be broken out into a different
8 property.

9 Q. And that's true of all the 20 items
10 on this two-page document, correct?

11 A. Yes.

12 Q. If you could turn to the second page,
13 item number 14, the chilled water plants, is
14 that the refrigeration plant that we've
15 discussed here today?

16 A. Yes. The one that we discussed so
17 far was a chilled water plant on B5. It also
18 refers to the smaller and distinct refrigeration
19 plant on B6.

20 Q. Can you tell me what was the function
21 of that refrigeration plant on B6?

22 A. That refrigeration plant was
23 installed in 1993. It was conceived of to be an
24 auxiliary plant for wintertime operation. We
25 had increased the power levels of the World

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2 Trade Center. We were doing an electrical
3 upgrade; we were taking the available power from
4 4 watts a square foot to 10 watts a square foot.

5 And that increase in power would
6 necessitate an increase in cooling capacity
7 because that kind of power would generate heat
8 which would need to be rejected. And that kind
9 of heat load would require air conditioning 365
10 days a year, which the old design at 4 watts a
11 square foot did not require. I don't know if
12 that's clear or not.

13 Q. Were both of these chiller plants
14 operated at the same time?

15 A. Sometimes.

16 Q. The ones on B5 and B6?

17 A. Right, but mostly it would either be
18 one or the other. There would be maintenance
19 that would need to be performed in the large
20 refrigeration plant, and that would take place
21 in the winter while the B6 plant ran. And then
22 conversely in the summertime, when the B5
23 refrigeration plant ran, maintenance would be
24 performed on the smaller B6 plant. So there
25 would always be one available.

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2 Q. Can you refer to Exhibit 46, please,
3 which we discussed earlier. This is the exhibit
4 on which you drew the refrigeration plant at my
5 request.

6 A. No.

7 (Discussion off the record.)

8 Q. I'm sorry, that was the emergency
9 generator?

10 A. This was the emergency generator.

11 Q. Sorry. Okay, if you look at Exhibit
12 34, page 194763. Do you have that?

13 A. Yes.

14 Q. We discussed this refrigeration room
15 earlier today, correct?

16 A. Yes.

17 Q. Which one is that?

18 A. This is the B5 refrigeration plant or
19 what we refer to as the big refrigeration plant
20 or the original refrigeration plant or the main
21 refrigeration plant.

22 Q. Okay. If you look at 194764, is the
23 B6 refrigeration plant located on this drawing?

24 A. No.

25 Q. Do you understand that this Figure

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2 10.25 on this page to be a representation of the
3 B6 level?

4 A. Yes.

5 Q. Is the reason it is not represented
6 on this drawing because this drawing was created
7 before 1993?

8 A. Correct.

9 Q. Can you indicate for me on that
10 drawing where that refrigeration plant was as of
11 September 11th, 2001?

12 A. Yes.

13 Q. If you would do so.

14 A. (Witness complying.)

15 Q. Thank you. We talked at your last
16 day of deposition about another email from Alan
17 Reiss, which is Exhibit 5, which listed
18 interconnected systems at the World Trade Center
19 complex. And I believe your counsel has put
20 that exhibit in front of you now. Do you recall
21 that exhibit?

22 A. Yes.

23 Q. Do you recall that conversation?

24 A. Yes.

25 Q. Exhibit B to the reciprocal easement

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2 and operating agreement appears to be a similar
3 list of interconnected systems at the Complex.
4 Does that appear to be a fair characterization
5 of the second two pages of Exhibit 48?

6 MR. CHEUNG: Objection to the form.

7 A. Let's say that items on Exhibit 5 are
8 also included on Exhibit 48, but there are items
9 in Exhibit 48 which are not included on
10 Exhibit 5. So there's an extraction of some of
11 these items to here.

12 Q. When we were talking about Exhibit 5
13 last time, you mentioned that the complex was
14 designed with a central plan in mind. I'm
15 wondering, could you tell me what you mean by a
16 central plan?

17 A. A central plant, plant. From my
18 perspective, when we're talking about heating
19 and cooling, the refrigeration plant served all
20 the buildings, and the steam plant served all
21 the buildings.

22 And if you were going to build
23 separate properties, you know, if building 1 was
24 a separate property and building 2 was another
25 property and 4 a property and 5 a property, with

1 Malopolski - Confidential

2 different owners and different operators, you
3 would have a refrigeration plant and a steam
4 plant in each property.

5 But when the complex was built, it
6 was built as one property. So there was not
7 that individualization where you could easily
8 say, you know, this is a refrigeration plant for
9 one.

10 Q. So when you testified last month
11 about the Port Authority for some period of time
12 attempting to run the building as separate
13 buildings, these common systems were not
14 physically altered in any way, were they?

15 A. The Port Authority didn't try to run
16 them as different buildings; they tried to
17 manage them as separate properties. But no, no
18 alterations were made to the systems to reflect
19 that.

20 And I think that Alan Reiss talks
21 about that in Exhibit 5. In the first
22 paragraph, under "Utility Operating and Demark
23 Points," he says, "The more I thought about it
24 last night, the more I realized that it is an
25 operational nightmare, not just to segregate and

1 Malopolski - Confidential

2 meter different utility feeds, but also to
3 operate the systems as separate buildings
4 without possibly impacting" ...

5 Q. Do you recall what activity took
6 place on July 24th, 2001 in connection with the
7 transition to the Silverstein entities?

8 A. We had a ceremony out on the plaza.
9 We had both governors and Larry Silverstein and
10 a guy from Westfield and some other politicians
11 and they handed Larry a big set of wooden keys.

12 Q. In preparation for that transition,
13 were there particular activities associated with
14 your job responsibilities that took place?

15 A. Well, it was around that time that I
16 was taken from the project management group at
17 the construction management division and
18 returned back to the, I'll call it plant and
19 structures concentration, although it wasn't
20 called that at the time. And that I was put on
21 the transition team.

22 MR. STICKELMAN: Are you going on to
23 a new topic?

24 MS. GIFFIN: Yes.

25 MR. STICKELMAN: I'm going to make a

1 Malopolski - Confidential

2 phone call and see if --

3 MS. GIFFIN: We'll take a brief
4 break and get this difficulty that we're
5 having with finding coverage to defend
6 Mr. Malopolski off the record.

7 THE VIDEOGRAPHER: We're now going off
8 the record. The time is 1:45 p.m.

9 (Recess taken.)

10 THE VIDEOGRAPHER: We're now going on
11 the record. The time is 2:03 p.m. This is
12 the end of the tape labeled 2 of the
13 videotaped deposition. We're now going off
14 the record at 2:03 p.m.

15 (Pause in the proceedings.)

16 THE VIDEOGRAPHER: This is the tape
17 labeled number 3 of volume II of the
18 videotaped deposition of Dennis Malopolski.
19 We're now going on the record. The time is
20 2:06 p.m.

21 MS. GIFFIN: I'd like to introduce the
22 next exhibit in sequence, a document Bates
23 stamped PORT/SRI 162181.

24 (Malopolski Exhibit 49, document
25 bearing Bates No. PORT/SRI 162181, marked

1 Malopolski - Confidential

2 for identification, as of this date.)

3 BY MS. GIFFIN.

4 Q. Let me know when you've had a chance
5 to review that, please.

6 A. Okay.

7 Q. Have you seen this document before,
8 sir?

9 A. Yes.

10 Q. Is it fair to characterize it as a
11 string of emails, correct?

12 A. Yes.

13 Q. Did you receive each of the emails
14 represented on this page?

15 MR. REYNOLDS: Just for
16 clarification, you're asking did he receive
17 them individually or did he receive them as
18 a string?

19 MS. GIFFIN: Either one, really.

20 A. Yes.

21 Q. You're the author of one of these,
22 correct?

23 A. Yes, although I'm not the one known
24 as unknown.

25 Q. Can you -- these emails all seem to

1 Malopolski - Confidential

2 have been exchanged on July 24th and 25th, 2001,
3 correct?

4 A. Yes.

5 Q. And you would have either received or
6 written them on or around those dates, correct?

7 A. Correct.

8 Q. Can you describe for me the subject
9 matter of these emails?

10 A. Well, at the closing, it's customary
11 that you check all the, you know, how much fuel
12 oil is in the tank, what the electric meter
13 reads, so that's what we're doing here, reading
14 all the utility meters to get a point where the
15 Port Authority responsibility stops and
16 Silverstein Properties begins.

17 Q. Was the electricity for the World
18 Trade Center billed on a single bill?

19 A. I don't know.

20 Q. Was it billed on a single meter?

21 A. No.

22 Q. When you went to check the meters for
23 the electric, what did you do physically? Where
24 did you go and what did you do?

25 A. We went to the meters and we read the

1 Malopolski - Confidential

2 display and recorded them.

3 Q. And where were those meters?

4 A. I don't recall.

5 Q. How many were there?

6 A. To the best of my recollection, I
7 think there were five. I don't know.

8 Q. Were the meters allocated as to
9 particular portions of the complex?

10 MR. REYNOLDS: Objection to the form.

11 A. Electricity is out of my bailiwick,
12 but I believe that the meters were on different
13 electric feeds to the complex.

14 Q. I'm not sure I understand what you
15 mean by different electric feeds.

16 A. We had a substation underneath
17 7 World Trade Center, a Con Ed substation, and
18 there were certain large cables called feeders.
19 And a group of these feeders came into the
20 building and went into the substation.

21 And they were broken down from that
22 point into the various different substations,
23 but at the point where they hit the first
24 substation is where they were metered.

25 Q. But all of these meters came off the

1 Malopolski - Confidential

2 Con Ed feeder, is that correct?

3 MR. REYNOLDS: Objection to the
4 characterization of the testimony.

5 A. They came off the point where they
6 went from Con Ed to World Trade. And that's
7 where the meter would be. It would measure all
8 power coming into the complex.

9 Q. And that was for electricity. Where
10 did you go to read the steam meters, if there
11 was such a thing, or if it was different?

12 A. Yes.

13 MR. REYNOLDS: Object to the form.

14 A. We went to the steam meter room.

15 Q. Which was where?

16 A. In the B6 level near the
17 refrigeration plant.

18 Q. How many meters for steam did you
19 read?

20 A. Five.

21 Q. And those were all at the B6 level?

22 A. Yes, they were all at the location
23 known as the meter room.

24 Q. Were those meters allocated for a
25 particular area?

1 Malopolski - Confidential

2 MR. REYNOLDS: Object to the form.

3 A. Yes, they were common. They measured
4 all of the steam that came into the complex.

5 Q. What about water, where did you go to
6 read water meters?

7 A. We went to each one of the locations
8 that was metered and read the meters. I believe
9 there were four locations.

10 Q. Do you recall where those were?

11 A. Yes.

12 Q. Where?

13 A. For the main utility rack on the B1
14 level, there was a meter right by the Barclay
15 Street ramp for the north feed from Vesey
16 Street. And there was a meter from the south
17 end underneath Vesey Street. And there was
18 another meter at that same location underneath
19 Liberty Street on the south feed that fed the
20 wine room for the Windows on the World. And
21 there was another meter on the B1 level by the
22 hotel.

23 Q. And you said those were all in the B1
24 level?

25 A. Yes.

1 Malopolski - Confidential

2 Q. Could I direct your attention to
3 Exhibit 34 again, page 194759. And that was
4 194759. Could you indicate for me on this
5 drawing where those meters were, please?

6 A. Which meters?

7 Q. The four water meters you just
8 described.

9 A. I'll just put an X.

10 Q. Thank you.

11 A. Here's one here. Two here. And one
12 here.

13 MR. REYNOLDS: Dennis, for the
14 record, can you put your initials? And
15 just to be a stickler, put your initials by
16 each X.

17 THE WITNESS: (Witness complying.)

18 MS. GIFFIN: Thank you,
19 Mr. Malopolski.

20 MR. CHEUNG: Figure 10.20 is the B1
21 level?

22 MS. GIFFIN: We're getting there.

23 MR. CHEUNG: Oh, okay. I wasn't sure
24 if there was a representation.

25 Q. Are you able to determine from looking

1 Malopolski - Confidential

2 at this drawing that this is a representation of
3 the B1 level?

4 A. Yes.

5 Q. Yes, it is?

6 A. Yes, it is.

7 MR. REYNOLDS: Can we also, just in
8 your handwriting at the top, just say water
9 meters, is that fair?

10 MS. GIFFIN: Um-hum.

11 THE WITNESS: (Witness complying.)

12 Q. Was there a particular significance to
13 these locations? I'm trying to determine why
14 the meters might have been placed where they
15 were.

16 MR. REYNOLDS: Object to the form.

17 A. Because that was the point where the
18 water was metered where it left the city system
19 and entered the World Trade system.

20 Q. So each of these points was supplied
21 by the city water system, correct?

22 A. Correct.

23 Q. Were these meters allocated to
24 particular areas of the World Trade Center
25 complex?

1 Malopolski - Confidential

2 A. No.

3 Q. To your knowledge?

4 A. No. They were the gross amount of
5 water fed to the place.

6 Q. Are you familiar with the term check
7 valves?

8 A. Yes.

9 Q. What are check valves?

10 A. A check valve is an automatic device
11 that will allow a fluid to flow in one direction
12 only.

13 Q. Were there check valves at the water
14 meter locations at the World Trade Center?

15 A. Yes.

16 Q. At each of those four locations?

17 A. At three of the four.

18 Q. Which one was there not?

19 A. The one that fed the Windows on the
20 World wine room was a very small water meter.
21 It was just a three-quarter inch line and did
22 not have a check valve.

23 Q. Did you read the other meters in
24 connection with the closing?

25 A. We read the electric, we read steam,

1 Malopolski - Confidential

2 we read water and we also gauged the diesel
3 supply for the emergency generators.

4 Q. And how did you do that?

5 A. We went and read the gauges on the
6 reserve tanks.

7 Q. And was that at the location you
8 discussed earlier today?

9 A. The one where we drew the emergency
10 generator plant? That was one of them. And
11 then there was another emergency generator plant
12 in the 5 World Trade Center 285 level. That was
13 the new one that had just been, or was in the
14 process of being completed.

15 Q. It was not complete as of September
16 11th?

17 A. Well, it was substantially complete,
18 but there was a punchlist. So let's say there
19 were some small items still being finished up,
20 but it was operational, yes.

21 Q. Do you remember which items were
22 still being finished up?

23 A. No, I don't know.

24 Q. And would those two emergency
25 generator systems function simultaneously or

1 Malopolski - Confidential

2 would one back up the other?

3 MR. REYNOLDS: Object to the form.

4 A. I don't know.

5 Q. Was the emergency generator plant at
6 5 World Trade Center designed so that it could
7 provide emergency power for the entire complex
8 if necessary?

9 A. I don't know.

10 Q. Were there any other meter readings
11 you took in connection with the closing?

12 A. I think that was it.

13 Q. I may have asked you this earlier,
14 but let me ask you again so I have a clear
15 record. Do you know whether or not these
16 utilities were billed on a single bill?

17 A. I do not know.

18 Q. For any of those systems?

19 A. That's correct.

20 Q. The top email on this, on Exhibit 49,
21 it is from someone named Robert Gifford. Who
22 was that?

23 A. Robert Gifford was doing -- he was in
24 our office, a World Trade person, crunching
25 number, doing utilities.

1 Malopolski - Confidential

2 Q. He was -- strike that. Do you know
3 who Nancy Seliga is?

4 A. Yes, I do.

5 Q. S E L I G A. Who is she?

6 A. She was one of the general property
7 managers.

8 Q. For?

9 A. 1 World Trade Center.

10 Q. I'm sorry, did she work for the Port
11 Authority?

12 A. Yes. She was World Trade Department,
13 Port Authority.

14 Q. And Carlos Dacosta, do you know whom?

15 A. Yes, I do.

16 Q. Who was that?

17 A. Carlos at this time, I believe that
18 he was -- well, I know what his job was, but I
19 don't know what his title was. I can't
20 remember.

21 But he was like in what I'll refer
22 to, because I don't know exactly what they call
23 them anymore, the plant and structures group.
24 He was second in command, assistant manager,
25 let's say.

1 Malopolski - Confidential

2 Q. This email reads, "The account
3 numbers I have are as follows," and then there
4 appears to be three account numbers. The first
5 one is preceded by the letters DEP, do you see
6 that?

7 A. Yes.

8 Q. Do you know what DEP refers to?

9 A. The department of environmental
10 protection.

11 Q. Do you know what this account number
12 is meant to represent?

13 A. That would be the water.

14 Q. So this would be the account number
15 for the water system at the World Trade Center
16 complex?

17 MR. CHEUNG: Objection to form.

18 A. I don't know.

19 Q. The next entry says Con Ed, do you
20 see that?

21 A. Yes, I do.

22 Q. Do you know what that is meant to
23 refer to?

24 A. Con Edison was the supplier of steam.

25 Q. So do you know if this was the

1 Malopolski - Confidential

2 billing number for the steam system at the World
3 Trade Center?

4 MR. REYNOLDS: Objection.

5 MR. CHEUNG: Objection to form.

6 A. I don't know.

7 Q. And there's an entry that says NYPA,
8 do you see that?

9 A. Yes.

10 Q. Do you know what that's in reference
11 to?

12 A. That would refer to New York Power
13 Authority.

14 Q. Do you know if this would be, if this
15 was the account number for the power system at
16 the World Trade Center?

17 MR. CHEUNG: Objection to form.

18 A. I do not know.

19 Q. Did you have an understanding of why
20 this information was being sent to you and these
21 other individuals at the time you received this
22 email?

23 A. Which information?

24 Q. The information in the top email,
25 those three numbers that we just discussed?

1 Malopolski - Confidential

2 MR. REYNOLDS: I ask you not to
3 speculate.

4 A. No.

5 Q. The email in the middle of the page
6 here from Carlos Dacosta states, in part, "Alan,
7 someone from Silverstein should notify the
8 utility as to who will be the new account owner
9 and provide the address for future billing." Do
10 you see that?

11 A. Yes.

12 Q. And then the email that is
13 immediately above that from Nancy Seliga, is
14 that pronounced correctly?

15 A. Yes.

16 Q. Says, "Yvonne Wright from Silverstein
17 is looking for account numbers for all the
18 utilities," in part. Do you see that?

19 A. Yes.

20 Q. And these three account numbers are
21 the next email in sequence, correct?

22 A. Correct.

23 Q. Are you able to understand, based on
24 reading these emails, what those account numbers
25 might refer to?

1 Malopolski - Confidential

2 MR. REYNOLDS: Objection. Don't
3 speculate.

4 A. Only through inference.

5 MR. REYNOLDS: Do not make
6 inferences.

7 A. No.

8 MS. GIFFIN: Let me introduce as the
9 next exhibit in sequence a document Bates
10 stamped SILV 52-001789.

11 (Malopolski Exhibit 50, document
12 bearing Bates No. SILV 52-001789, marked for
13 identification, as of this date.)

14 Q. Have you seen this document before,
15 sir?

16 A. No.

17 Q. The title, rather the subject line
18 for this document reads "Meter Readings WTC,"
19 correct?

20 A. Correct.

21 Q. And it is sent from Chi Chu to
22 Charlie Magee, according to this document,
23 correct?

24 A. Correct.

25 Q. If you refer back to Exhibit 49, am I

1 Malopolski - Confidential

2 correct that you state in the email you authored
3 here that Charlie Magee went with you to read
4 the meter?

5 A. That's correct.

6 Q. And that would be the same Charlie
7 Magee referred to in this memorandum?

8 A. The same.

9 Q. Is it your understanding that this
10 document is a reflection of the information you
11 and Mr. Magee gathered when you did the meter
12 reading?

13 MR. CHEUNG: Objection.

14 MR. REYNOLDS: Objection.

15 A. That's correct, as far as I can tell.

16 MS. GIFFIN: The next exhibit in the
17 series of documents is PORT/SRI 165211.

18 (Malopolski Exhibit 51, document
19 bearing Bates No. PORT/SRI 165211, marked
20 for identification, as of this date.)

21 Q. Let me know when you've had a chance
22 to review that.

23 A. Okay.

24 Q. Have you seen this document before?

25 A. Yes.

1 Malopolski - Confidential

2 Q. This is an email from Carlos Dacosta
3 dated July 26, 2001, correct?

4 A. Correct.

5 Q. Did you receive this email on or
6 about that date?

7 A. Yes.

8 Q. Can you describe the subject matter
9 that's being described herein?

10 A. Carlos is letting the Silverstein
11 management know what our -- in other words,
12 prior to the net lease, what we required as far
13 as prior notification for any shutdowns of these
14 systems.

15 Q. Are these systems fairly
16 characterized as what you and I discussed at
17 your last deposition, as base building systems?

18 MR. REYNOLDS: Objection to
19 characterization of prior testimony.

20 A. Yes.

21 Q. Do you know if Silverstein, the
22 Silverstein entities, after the lease continued
23 to provide these kinds of notifications for
24 shutdowns for these systems?

25 A. Well, it wouldn't be up to

1 Malopolski - Confidential

2 Silverstein to provide these. This would be for
3 people that wanted to shut the system down to
4 request of Silverstein, in other words, to
5 ensure that there would be no interruptions and
6 to make sure that, let's say, you had an
7 electric service shutdown -- we had gone through
8 some sheets, emails before that said, you know,
9 a list of equipment, this, this, this, this will
10 be out of service because we're doing electric
11 shutdown at this substation.

12 So these notification days would
13 allow the building management to thoroughly
14 research the impact of a shutdown at that
15 portion of the system, and to properly notify
16 anyone that would be impacted and to have
17 discourse.

18 You know, let's say that you were
19 having the end-of-the-year thing and you were an
20 accountant, an end-of-the-year summation of your
21 business, and you know, we were going to shut
22 you down on January 1st. So you'd say, no, you
23 can't do that because all my computers are
24 running and I have to have all these tallies.
25 And there would be negotiations as to when the

1 Malopolski - Confidential

2 shutdown would be acceptable. So that's what
3 the time frame is concerned with.

4 Q. So when the Port Authority was
5 operating the World Trade Center complex, it
6 required contractors and tenants to provide at
7 least this amount of notification in this list
8 if they were going to affect these base building
9 systems?

10 MR. REYNOLDS: Objection to the form.

11 A. Correct.

12 Q. And that was because the Port
13 Authority needed at least this much time to
14 assess the impact on the whole system?

15 MR. REYNOLDS: Objection to the form
16 and objection to the characterization of the
17 testimony.

18 A. To assess the impact and to contact
19 those who would be impacted to make sure that
20 there would be no adverse impact on them, or
21 that it was acceptable with them.

22 Q. And it's important to do that because
23 these system did affect the entire complex,
24 correct?

25 MR. REYNOLDS: Objection to the form.

1 Malopolski - Confidential

2 Objection to the characterization of prior
3 testimony.

4 MR. CHEUNG: Objection.

5 A. It depends on what portion of the
6 system. You could start at the very small and
7 work back to the very large.

8 Q. But in order to assess what portion
9 of the system would be affected, you needed to
10 be able to get the information in enough time to
11 make those kinds of decisions, correct?

12 A. Correct.

13 MS. GIFFIN: Next document is Bates
14 stamped GMAC 002-07724 through 07730.

15 (Malopolski Exhibit 52, document
16 bearing Bates Nos. GMAC 002-07724 through
17 07730, marked for identification, as of this
18 date.)

19 Q. Have you seen this document before,
20 sir?

21 A. No.

22 Q. You've had a chance to review it
23 though?

24 A. Yes.

25 Q. On the second page of this document,

1 Malopolski - Confidential

2 there's a title that says, "Schedule 12.3, Port
3 Authority Employees Covered by Transition
4 Services Agreement." Do you see that?

5 A. Yes.

6 Q. Do you have an understanding of what
7 a transition services agreement is?

8 A. No.

9 MR. CHEUNG: Objection.

10 Q. You've had a chance to review the list
11 of names on this document, have you not?

12 A. Yes.

13 Q. Are these people who were involved
14 with the transition team between the Port
15 Authority and Silverstein during the period of
16 July 24th, 2001 to September 11th, 2001?

17 MR. REYNOLDS: Objection, lacks
18 foundation. Object to the form.

19 A. No. Those people are included on this
20 list, but there are others on this list that
21 were not transition team members. You know,
22 I -- of course, this is listed as -- like I
23 said, I don't know what transition services
24 means. But as I understand it --

25 MR. REYNOLDS: Don't speculate as to

1 Malopolski - Confidential

2 what it means.

3 A. Okay, not what this means, but as I
4 understand it, the transition team members are
5 on this list, but all of these people are not,
6 as I understood, the transition team.

7 Q. Do you know how big the transition
8 team was, referring specifically to how many
9 Port Authority people were on the transition
10 team?

11 MR. REYNOLDS: Mr. Malopolski's
12 understanding of transition team?

13 MS. GIFFIN: Yes.

14 A. I don't know.

15 Q. Was it more than 50, do you know?

16 A. I don't know. I only know my small
17 part of the world.

18 Q. How many people from your small part
19 of the world were on the transition team?

20 A. Four.

21 Q. Who were they?

22 A. Myself, Herman Ret, Ernie Anemone.

23 Q. Can you spell that last name?

24 A. A N E M O N E, and Ray Simonetti.

25 Q. And when you say your small part of

1 Malopolski - Confidential

2 the world, what are you referring to?

3 A. I'm referring to -- and I caught the
4 title of the group now. We were called at that
5 time operations and maintenance management.
6 That's what I had previously referred to as the
7 plants and structures group.

8 Q. And you're looking on page 07728?

9 A. Yes. I don't see a date on this
10 document anywhere.

11 Q. I'm looking at page 07728, at the
12 bold print that says "Operations and Maintenance
13 Management"?

14 A. Yes.

15 Q. I don't see any of the names you just
16 mentioned or your own name under that title
17 there, do you?

18 A. No, I don't. That's why I said, I
19 can't see a date. So I don't know what the --

20 Q. In the contract -- I'm sorry, I
21 interrupted you.

22 A. I still see myself under tenant
23 project management, which is the construction
24 management division. So this has to be prior to
25 July 24th.

1 Malopolski - Confidential

2 Q. Next to your name, there are three
3 columns, do you see that?

4 A. Yes.

5 Q. One is -- the first is dollar figure,
6 the second is a percentage, and the third is
7 also a dollar figure, is that correct?

8 MR. REYNOLDS: Just for clarity, to
9 the right of his name are three columns, and
10 there are columns to the left of his name as
11 well.

12 Q. Is my characterization, description
13 correct?

14 A. Correct.

15 Q. Can you tell me what those three
16 columns were meant to indicate?

17 A. I don't know.

18 Q. The first dollar figure is \$88,724,
19 is that correct?

20 A. Yes.

21 Q. Was that your salary with the Port
22 Authority prior to the lease?

23 A. I believe it must have been, yes.

24 Q. And the second dollar figure, the
25 last column on that page, is \$133,086, correct?

1 Malopolski - Confidential

2 A. Yes.

3 Q. Was that the amount that you were to
4 be paid while working for Silverstein on the
5 transition team?

6 MR. REYNOLDS: Objection to the
7 characterization.

8 A. I don't know.

9 Q. Were you offered a raise or any
10 additional money for the services you were to
11 provide while on the transition team?

12 A. Yes.

13 Q. Do you remember how much that was?

14 A. Yes.

15 Q. Can you tell me?

16 A. 7,500 in salary increase. And 5,000
17 cash bonus.

18 Q. For a total of 12,500, correct?

19 A. That year.

20 Q. How long were you to work with
21 Silverstein as a member of the transition team?

22 MR. REYNOLDS: Object to the
23 characterization.

24 A. That was never disclosed to me.

25 Q. So when you say 12,500 that year, do

1 Malopolski - Confidential

2 you mean calendar year 2001?

3 A. Yes.

4 Q. Do you know whether all Port
5 Authority employees who worked on the transition
6 team were offered additional money for their
7 work in that capacity?

8 A. Yes.

9 MR. CHEUNG: Objection to form.

10 Q. I'd like to refer you back to page
11 07726. Under the title "Security and Life
12 Safety," do you see that?

13 A. Yes.

14 Q. Can you tell me, from the list of
15 names underneath that title, was there anyone
16 among those individuals who was as familiar with
17 the sectionalizing valves that we've discussed
18 today as you are?

19 MR. CHEUNG: Objection to form.

20 MR. REYNOLDS: Same objection.

21 A. What was the question again?

22 Q. Is there anyone among this list of
23 people who is as familiar with the
24 sectionalizing valves we've discussed today as
25 you are?

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2 MR. REYNOLDS: Same objection.

3 MR. CHEUNG: Objection.

4 A. I don't know.

5 Q. Just for your reference, you'll
6 recall earlier today that you said that you're
7 aware of a small, of a pool of people who had as
8 much familiarity with those valves as you did,
9 do you recall that?

10 MR. CHEUNG: Objection.

11 MR. REYNOLDS: Objection to the form.

12 A. Yes.

13 Q. And I believe you said if you had a
14 list of people, you might be able to determine
15 who those were. So I'm trying to determine if
16 this list would help you remember who some of
17 those people might be. So with that in mind,
18 can I refer you to page 07728?

19 I'm looking in particular at
20 operations and maintenance management, duty
21 operations, general maintenance, and central
22 services management, which continues on to the
23 next page, could you review these names and see
24 if there's anyone you believe is as familiar
25 with those valves as you are?

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2 MR. REYNOLDS: Same objection.

3 A. I see one.

4 Q. Who is that?

5 A. William Hamann.

6 Q. And what was his position with the
7 Port as of -- sorry, do you know what his
8 position was as of September 11th, 2001?

9 A. No.

10 Q. Do you know what his position was as
11 of July 24th, 2001?

12 A. Yes.

13 Q. Can you tell me what that was?

14 A. Of course I was no longer in that
15 group, so I have to say, just from what I know
16 from the outside, that he was in charge of
17 mechanical systems in that operations and
18 maintenance management group.

19 Q. Next to his name on the left, there's
20 an indication. Can you tell me what you
21 understand that to mean?

22 A. It says electrical maintenance
23 supervisor.

24 MR. CHEUNG: Objection to the form.

25 Q. Was that his position at any point in

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2 time?

3 A. No.

4 Q. Do you know why it was stated he was
5 an electrical maintenance supervisor?

6 MR. REYNOLDS: Don't speculate.

7 A. No.

8 Q. If I could refer you to the next page
9 and have you review any names you haven't
10 already reviewed and tell me if there's anyone
11 else on this page who was as familiar with these
12 valves as you are?

13 MR. CHEUNG: Objection to the form.

14 MR. REYNOLDS: Are you asking for the
15 entire page now, or still within the small
16 group --

17 MS. GIFFIN: On the entire page.

18 Q. And on to the next page too, frankly.

19 A. Well, I see my name, so you can put me
20 in there. And I would say probably Sen Pu
21 Chiao.

22 MR. REYNOLDS: Spelled the usual way?

23 A. S E N, P U, C H I A O.

24 Q. And is that individual, is that a
25 Ms. or Mr. Chiao?

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2 A. Mr. Chiao.

3 Q. And next to Mr. Chiao's name on the
4 left, it says engineer, correct?

5 A. Correct.

6 Q. Was he an engineer?

7 A. Yes.

8 Q. Was he an engineer with tenant design
9 review as of July 24th, 2001?

10 A. Yes.

11 Q. Do you know if he was still in that
12 position as of September 11th, 2001?

13 A. I don't know.

14 Q. Do you know where he was on September
15 11th, 2001?

16 A. I do not know.

17 Q. Do you know where Mr. Hamann was on
18 September 11th, 2001?

19 A. Later in the day, he was with me.
20 Where he started out that day -- well, we were
21 together, we were apart, we were together.

22 Q. Let's go back --

23 A. And then we were apart again.

24 Q. Let me finish up the list and we'll
25 come back to that again. Have you had a chance

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2 to finish the list of names on 7730?

3 A. Yes.

4 Q. The last page of this document?

5 A. Yes.

6 Q. And are there any other people you
7 would include in the list of people we were
8 discussing?

9 A. No.

10 Q. So including yourself, there are
11 three people on this list that have the
12 familiarity level -- sorry, strike that.

13 There are two other people on this
14 list that have the familiarity with the
15 sectionalizing valves that you do, as to those
16 portions of this list we have looked at,
17 correct?

18 MR. REYNOLDS: Objection as to form.

19 A. Correct.

20 Q. The title, the bold print titles in
21 this document, do you know if these refer to
22 Port Authority divisions or groups?

23 MR. REYNOLDS: Object, lack of
24 foundation. He said he's not familiar with
25 this document.

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2 Don't speculate. You can answer if
3 you know.

4 A. Yes.

5 Q. Prior to the lease, are you aware of
6 whether it was the responsibility of any of the
7 individuals on this list to report to the fire
8 command center in the case of a fire?

9 A. Prior to the net lease?

10 Q. Yes.

11 A. I don't know. As I said, I was out
12 of the group that would be reporting to the fire
13 command center. I was in this tenant project
14 management group and was unfamiliar with what
15 the other group, the way they ran it at that
16 point.

17 Q. I believe you told me that during the
18 period 1993 until two years prior to the net
19 lease, part of your job responsibilities
20 included reporting to the fire command center in
21 case of fire, is that correct?

22 MR. REYNOLDS: Mischaracterizes the
23 prior testimony. You can answer it.

24 A. Yes.

25 Q. Was that because you were in a

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2 supervisory position in your department?

3 A. Correct.

4 Q. Do you know, as to the groups listed
5 on this document, were individuals in
6 supervisory capacities in these groups also
7 required to report to the fire command center?

8 MR. REYNOLDS: Objection to the form.

9 Q. In the same period of time, 1993 to
10 two years prior to the net lease?

11 A. I don't understand the question.

12 Q. I'm trying to determine if there was
13 someone who had a parallel responsibility to
14 yours in other World Trade Center groups, that
15 is specifically the responsibility to report to
16 the fire command center in the case of a fire?

17 MR. REYNOLDS: I'll object to the
18 characterization. Is that a question or a
19 statement?

20 MS. GIFFIN: I'm trying to determine
21 if that is true.

22 A. I still don't understand what you're
23 asking.

24 Q. Well, for example, on page 07726,
25 there's a listing here that says "Security and

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2 Life Safety," do you see that?

3 A. Yes.

4 Q. Was that a group or division within
5 the Port Authority?

6 A. Yes, but it was a group in the World
7 Trade Department.

8 Q. Thank you. Do you know as of --
9 well, during the period of time, 1993 until two
10 years prior to the net lease, do you know who
11 was in a supervisory position within that group?

12 MR. CHEUNG: Objection to form.

13 MR. REYNOLDS: Same objection.

14 A. Yes.

15 Q. Who was that?

16 A. That would be Doug Karpiloff,
17 security director, and Mike Hurley, life safety
18 supervisor. Of course, their titles at that
19 time would be different, but those were the two
20 gentlemen, yes.

21 Q. Do you know whether those two
22 gentlemen had responsibility similar to yours,
23 to report to the fire command center in the case
24 of a fire?

25 MR. REYNOLDS: In the period from

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2 1993 to two years prior to the net lease?

3 MS. GIFFIN: Yes.

4 MR. REYNOLDS: Objection to the form.

5 MR. CHEUNG: Objection to the form.

6 A. You're asking me if they were
7 required? I really don't know. They were
8 there. Now, what their job description was
9 and -- you see, that's a different group, a
10 different department. So what their, what their
11 marching orders are, I can't really say. But I
12 will say that I saw them.

13 Q. You saw them where?

14 A. During those situations, and I would
15 assume that that would be their duty, but to say
16 that it was, I can't --

17 MR. REYNOLDS: Don't make
18 assumptions.

19 Q. What situations did you see them there
20 during?

21 A. The ones you described, a fire.

22 Q. What fires are you thinking of in
23 particular?

24 A. We had fires from time to time. It
25 was not an unusual occurrence.

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2 Q. Can you estimate how often you had
3 fires?

4 A. They would come in groups, and then
5 there would be periods with no fires but many
6 false alarms. And there could be some days when
7 we would have 10 alarms and the fire department
8 would report 10 times to false alarms. And then
9 there would be periods where maybe we would have
10 two or three fires over a period of three weeks.
11 It was sporadic.

12 Q. And it was your job responsibility
13 every time a fire was reported to report to the
14 fire command center?

15 MR. REYNOLDS: During 1993 to --

16 MS. GIFFIN: During the same time
17 period, yes.

18 A. An actual fire or a fire alarm?

19 Q. Was your responsibility different --

20 A. Yes.

21 Q. -- in those circumstances?

22 A. Yes.

23 Q. Can you describe the difference to
24 me?

25 A. Well, as I had said, there would be

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2 some days when you would have 10 false alarms
3 and you wouldn't race everybody down to the fire
4 command center for a false alarm. If it was an
5 actual fire, that's when, you know, the orders
6 took effect.

7 Q. How did you determine when it was an
8 actual fire such that the orders took effect?

9 A. Well, there would be -- an alarm
10 would come in and someone would be dispatched
11 to, either someone would be dispatched or
12 someone would be called in as an actual fire.

13 A lot of times you would have an
14 incident where you would have somebody put a bag
15 of microwave popcorn in the microwave and hit
16 the button and walk away, and it would smoke
17 like crazy and set off the alarms. And we would
18 get alarms down at the desk and then send
19 somebody by to see if it was a real fire.

20 Q. And they would call back and tell you
21 if it was a real fire?

22 A. They would call the fire command
23 desk.

24 Q. And at some point, someone would call
25 you and say this is a real fire, you have to

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2 come now?

3 A. It would be broadcast over the radio.

4 Q. And you've testified this happened
5 numerous times over the course of the period of
6 time that you had this responsibility, is that
7 correct?

8 A. It happened occasionally.

9 Q. On those occasions when you did
10 report to the fire command center and you
11 testified that you saw Mr. Karpiloff and
12 Mr. Hurley there, correct?

13 A. Yes.

14 Q. Who else did you see there?

15 A. A whole cast of characters. I would
16 see Ed Strauss there.

17 Q. What was Mr. Strauss' position?

18 A. He was chief of operations.

19 Q. Are you aware of whether it was his
20 job responsibility to report to the fire command
21 center in those circumstances?

22 A. I don't know.

23 Q. Who else?

24 A. I would see Joe Amatuuccio there.

25 Q. What was his position?

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2 A. At that point, we're talking 1993 to
3 1999, he was in charge of vertical
4 transportation.

5 Q. Are you aware whether it was part of
6 his job responsibility to be there?

7 A. I don't know.

8 Q. Who else?

9 A. Herman Ret, or his predecessor, John
10 Castaldo.

11 Q. And what position are you describing
12 when you describe Mr. Ret and his predecessor?

13 A. Chief of electrical operations.

14 Q. And was it part of the job
15 responsibilities of the chief of electrical
16 operations to be at the fire command center in
17 case of a fire?

18 A. I don't know.

19 Q. Who else?

20 A. Probably Lennie Ardizzone.

21 Q. And what was his position?

22 A. Chief of structural operations.

23 Q. And do you know if it was part of his
24 job responsibilities to be there during a fire?

25 A. I don't know.

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2 Q. Who else?

3 A. A lot of people. When there would be
4 an actual fire, everyone would turn out to help,
5 whether it was these people's marching orders to
6 report there or not. And there were other
7 people I'm certain who weren't ordered to be
8 there who would show up to help.

9 Q. You've told me, I think, that the
10 fire command center had a limited space,
11 correct?

12 A. It was in a corner of the lobby. And
13 if you saw the French brothers 911, did you see
14 that?

15 Q. A while ago.

16 A. And you saw about maybe 3 or 400
17 firemen, that was the scope of the fire command
18 center. It was not limited. Behind the desk
19 was limited, but --

20 Q. I understand.

21 MR. REYNOLDS: The record doesn't get
22 your gesturing with --

23 THE WITNESS: Okay.

24 A. But there was approximately an acre of
25 space there where people could stand.

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2 Q. During the course of the occasional
3 fires we've been discussing, about how many
4 people would normally turn up at the fire
5 command center?

6 MR. REYNOLDS: Objection to the form.

7 A. It would be different from time to
8 time, depending upon the severity of the
9 location.

10 Q. Can you give me a range?

11 A. Five to 50.

12 Q. How long did it take you to get from
13 your office to the fire command center when
14 there was a fire?

15 MR. REYNOLDS: I'm going to object to
16 the form to the extent it calls for
17 speculation. It's hypothetical, but you can
18 answer it.

19 A. It is hypothetical. It could be
20 different every time.

21 Q. Can you give me a range?

22 A. Two minutes to 20 minutes.

23 Q. And what did that depend on?

24 A. Where my office was at the time, what
25 fire command center I was going to, whether the

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2 elevators were in operation or not.

3 Q. Were there fires in the course of
4 your, during the same time period, 1993 to 1999,
5 were there fires where the elevators were not
6 operational?

7 A. Yes.

8 Q. And in that case, it would take you
9 longer to get to the fire command center,
10 correct?

11 A. Yes

12 Q. I'm sorry, your office was in which
13 tower?

14 MR. REYNOLDS: At which point in
15 time?

16 Q. Did it move between towers from 1993
17 and 1999?

18 A. I moved offices at least eight times
19 in ten years.

20 Q. So if your office was in World Trade
21 Center 1 and the fire was in World Trade Center
22 2, it would take you longer to get there than if
23 the fire was in World Trade Center 1, correct?

24 MR. REYNOLDS: Excuse me, assuming he
25 was in his office at the time.

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2 MS. GIFFIN: Sure.

3 A. Right.

4 Q. Am I understanding you correctly,
5 that you don't have any specific information
6 about who else may have had the responsibility
7 to report to the fire command center during a
8 fire beyond your own responsibility to do so?

9 MR. REYNOLDS: During the period 1993
10 to 1999?

11 MS. GIFFIN: We'll start with that.

12 A. That's correct.

13 Q. Did you have any information on that
14 from 1999 to the time of the net lease?

15 A. No.

16 Q. Do you have any information about who
17 was required to report to the fire command
18 center from the period of July 24th, 2001 until
19 September 11th, 2001?

20 A. No.

21 Q. Where were you on --

22 MR. REYNOLDS: Can we go off the
23 record for one second?

24 THE VIDEOGRAPHER: Sure. Off the
25 record, counselor?

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2 MS. GIFFIN: Actually, let me ask one
3 question which may clarify how much time we
4 have left.

5 Q. Let me skip forward to another subject
6 and ask, were you involved with the cleanup of
7 the World Trade Center site after September
8 11th?

9 A. Yes.

10 Q. Can you describe briefly for me the
11 extent of your involvement?

12 A. I came back on several occasions to
13 locate underground utilities, shut off valves.
14 I was called upon to direct urban search and
15 rescue teams in subgrade search for survivors.

16 MS. GIFFIN: Okay, let's stop there
17 and go off the record.

18 THE VIDEOGRAPHER: We're now going off
19 the record. The time is 3:03 p.m.

20 (Recess taken.)

21 THE VIDEOGRAPHER: We're now going on
22 the record. The time is 3:14 p.m.

23 MS. GIFFIN: Mr. Reynolds, you wanted
24 to make a statement?

25 MR. REYNOLDS: Yes. Just for purposes

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2 of the record, you have asked to continue
3 for another 45 minutes past the three
4 o'clock time that we agreed to end.

5 Mr. Malopolski has agreed, I guess if
6 you believe you can finish in 45 minutes or
7 maybe less, Mr. Malopolski has agreed to
8 extend the 45 minutes. However, I do need
9 to state that we do have to stop at the 45
10 minute mark, which will be approximately
11 four o'clock.

12 I also need to note that, in asking
13 Mr. Malopolski about what happened on
14 September 11th, I'm going to be asking you
15 in a professional capacity to limit the
16 questioning to his experience, mechanically,
17 structurally, et cetera, but to stay away to
18 the extent possible from personal and
19 emotional matters, because it's not
20 something that Mr. Malopolski is very keen
21 to talk about.

22 MS. GIFFIN: I understand. And we
23 have all due respect for the difficulty that
24 this line of questioning will cause, and
25 we'll do our best to avoid any subjects that

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2 are fraught with those kinds of
3 difficulties.

4 Responding to the first part of what
5 you said, I just want to put on the record
6 that in part, the reason for our needing to
7 extend was because of a delay based on you
8 and Mr. Stickelman needing to be in other
9 places, so that there was a break. And we
10 also started later today than we had hoped
11 to for no one's particular fault, but those
12 are the reasons for the extension in the
13 time.

14 MR. REYNOLDS: I would like to state
15 that in total, it probably amounted to 15
16 minutes of delay, both in the morning and
17 during the transition between Mr. Stickelman
18 and myself. However, let's go.

19 BY MS. GIFFIN:

20 Q. And Mr. Malopolski, let me reiterate
21 that, obviously we're under time restraints, but
22 I don't mean to be disrespectful, and if at any
23 point you need to take a moment, please just let
24 me know.

25 A. Okay.

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2 Q. Can you tell me where you were on the
3 morning of September 11th, 2001, please?

4 A. At the World Trade Center.

5 Q. In which building? In which
6 building?

7 A. At what time?

8 Q. Prior to the attack?

9 MR. REYNOLDS: Object to the form of
10 the question.

11 A. Building 2.

12 Q. Is that where your office was on that
13 day?

14 A. Yes.

15 Q. Do you recall where you were when the
16 first plane hit? Were you in your office?

17 A. Yes.

18 Q. At what point did you leave your
19 office?

20 A. Shortly thereafter.

21 Q. Before the second plane?

22 A. Yes.

23 Q. Where did you go?

24 A. When I first left my office?

25 Q. Yes.

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2 A. The first thing I did was I evacuated
3 my secretary. She has a breathing problem and I
4 knew from the 1993 incident that we might lose
5 the ability to use the elevators, so the first
6 thing I did was I took her out of the building
7 because I knew she couldn't walk out.

8 And then I returned to my office to
9 get my radio, keys and a flashlight, and then I
10 went around the rest of the floor to try to
11 evacuate everybody else.

12 And at that point, I was able to look
13 out the north side of the Tower 2 and see what
14 was going on. And I saw some horrible things.
15 And then I was in the elevator coming down when
16 Tower 2 was hit and we lost power. The elevator
17 stopped and we were stranded for a little while.

18 And I guess we must have switched to
19 emergency power and the elevator came to the
20 lobby and the doors opened. And the lobby was
21 fully engulfed in smoke and dust; you couldn't
22 see. We had to feel our way out. And when we
23 got to the street, went to the street side,
24 there was still debris falling off the building.

25 Q. When you say the street side, which

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2 side are you referring to?

3 A. Liberty Street. My elevators were
4 closest to Liberty Street, so when we came down,
5 I was with a bunch of elevator mechanics in the
6 elevator. And we had to feel our way to that so
7 we went the shortest way.

8 Q. So you went out to the street?

9 A. We went to the vestibule on Liberty
10 Street. It was at that point, we saw stuff
11 still falling, big pieces. And we waited until
12 it looked pretty good and then each man took a
13 dash for himself to try to make it across. We
14 did.

15 I circled back around to the river
16 water pump station where the mechanical staff
17 was mustering. Our emergency plan was to meet
18 up outside the building in the event of a
19 disaster because in 1993 we had people trapped
20 and we were unaware where they were.

21 Q. When you got to that location, who
22 was there?

23 A. The contract mechanical staff was
24 coming in in dribs and drabs, and they were
25 calling on the radio to find out who was where,

1 Malopolski - Confidential

2 who had gotten out of the building, who we
3 needed to go find.

4 We found that the refrigeration plant
5 had been evacuated, that the guys that were
6 working in various jobs in the mechanical rooms
7 had gotten out. Have you seen Artie? Have you
8 seen Guido? Have you seen -- you know, trying
9 to get everybody together for a head count.

10 Q. Was there anyone from the Fire
11 Department of New York at that location?

12 A. No.

13 Q. Where did you go when you left that
14 location?

15 A. From there, I went to New Jersey.

16 Q. And do you know where the other
17 people went from that location? Do you know if
18 they stayed at that site or if they left the
19 site?

20 A. At that point when we were at the
21 river water pump station, we were upstairs on
22 the street level and Tower 2 collapsed. So some
23 of us went down into the pump station
24 subterranean space and other people went in
25 different directions.

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2 So out of all the people that were
3 there, I guess maybe a dozen went down in the
4 pump station and we waited down there. We
5 secured the pump station, shut off the sluice
6 gates to prevent any water from flowing anymore.
7 We shut the systems down and waited.

8 And then when it finally looked like
9 some daylight outside, we sent someone up to
10 look. And the area was -- there was nobody
11 around. It was totally desolate, covered with
12 ash about ankle deep.

13 And then we went to the Hudson River
14 and climbed over the fence onto a police boat.
15 And there was a water taxi tied to that and we
16 got in the taxi. And we went down to the south
17 cove and we helped load a bunch of civilians on
18 and passed out the life jackets.

19 And then as the boat was pulling away
20 from the dock, Tower 1 collapsed. And the boat
21 took us to Liberty State Park.

22 Q. Can you estimate for me the amount of
23 time it took for you to get from your office
24 when you returned -- you had taken your
25 secretary down and then you returned to your

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2 office. Can you estimate how long it took you
3 to get from your office to that gathering point
4 that you described?

5 A. It's a strange thing, but that day, I
6 have no concept of time. I mean I must have
7 looked at my watch 100 times and I never saw the
8 time. And it seems very elastic; it seemed like
9 the day went on for a year.

10 Q. When you went down into the
11 subterranean level area, was that after the
12 collapse of Tower 2?

13 A. That's why we went down there, to
14 escape the dust cloud.

15 Q. And tell me again exactly where you
16 were located when you went down into the
17 subterranean level?

18 A. At the river water pump station.

19 Q. Which was where?

20 A. At the end of Liberty Street.

21 Q. On which level?

22 A. Street level.

23 Q. I'm sorry, I'm confused. I thought
24 you were talking about when you went to the
25 subterranean level, am I misunderstanding you?

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2 A. There's a park and a plaza above the
3 station. That's where we were meeting. And
4 when the building fell, we went downstairs.
5 There's a flight of stairs and the pump station
6 is immediately below that park, so it's
7 underneath the concrete deck.

8 Q. And you said you shut off the pump
9 station?

10 A. Right.

11 Q. What effect would that have had on
12 the system?

13 A. That would stop the water, the river
14 water from flowing into the building. We shut
15 the sluice gates. The pumps were off already.

16 Q. Why were the pumps off?

17 A. Once Tower 2 fell, it severed all the
18 electric feeds out to there. There was no more
19 power. It was darkness. You know, everything
20 was, you know, everything tripped out.

21 Q. You mentioned earlier that William
22 Hamann was with you for part of that day, am I
23 correct?

24 A. That's correct.

25 Q. Was he with you when you went to the

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2 subterranean level?

3 A. Yes.

4 Q. Who else was with you?

5 A. There were about 10 people.

6 Q. Do you remember their names?

7 A. Yes.

8 Q. Can you tell me their names please?

9 A. Donald Singh, Phil Hanna, Bob
10 Labriola, Rick Collins, Joe Shearin, Dennis
11 Hughes, Ed McCabe.

12 Q. Is that all you can remember?

13 A. Right now, yes.

14 Q. Prior to the time when you boarded
15 the boat that you talked about, did you come in
16 contact with the Fire Department of New York at
17 all?

18 A. No.

19 Q. Did anyone from that group of people
20 you were with in the subterranean level come
21 into contact with the Fire Department of New
22 York while you were with them?

23 A. No.

24 Q. And do you know if anyone in that
25 group of people gathered on Liberty Street, I

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2 think you said it was Liberty Street where your
3 group was meeting, if any of those individuals
4 came into contact with the Fire Department of
5 New York?

6 MR. REYNOLDS: While he was with
7 them?

8 A. While I was with them?

9 Q. While you were with them.

10 A. No.

11 Q. Do you have any knowledge about
12 whether or not they came into contact with the
13 fire department at any time during that day?

14 A. I don't know.

15 Q. Thank you for talking about that
16 subject. I appreciate it.

17 I'd like to talk about the cleanup
18 now. You had mentioned that you were involved
19 to some extent with the cleanup, right?

20 A. Yes.

21 Q. When was the first time you returned
22 to the site after September 11th?

23 A. I don't really know the date. It was
24 shortly after the incident.

25 Q. Was it a matter of days or a matter

1 Malopolski - Confidential

2 of weeks?

3 A. It was a matter of days.

4 Q. And why did you go the first time?

5 A. I was called to come back because of
6 my knowledge of the river water system. They
7 were having trouble with the PATH tunnels to New
8 Jersey flooding, and it seemed to be a tidal
9 thing.

10 They would pump and then they would
11 lose ground, and then they would pump and they
12 would lose ground. And it seemed like the tidal
13 action of the Hudson River was filling up the
14 basement. And they asked me to come back and
15 locate the shutoff valves for the river water
16 outfall lines which were out in West Street, so
17 I did that.

18 Q. Who asked you?

19 A. The Port Authority engineering.

20 Q. Was there a particular individual you
21 spoke with?

22 A. There were several. A gentleman
23 named Bill Sullivan called me on behalf of Ray
24 Finnegan to come back and help them to locate
25 where those valves were. They were in manholes

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2 under the street and they were completely
3 covered with debris underneath the north
4 pedestrian bridge.

5 So we pointed out where we thought
6 they would be. And they brought loaders to move
7 the debris out of the way. And we located the
8 manholes and opened them up, pumped them out,
9 and shut the valves. They were large valves,
10 60-inch valves, 66-inch valves, 36-inch valves.

11 Q. These were valves within the water
12 supply?

13 A. These were valves from the river
14 water outfall. As I had testified previously,
15 we took water from the Hudson River from that
16 pump station that we were at, circulated through
17 the refrigeration machines, and then back out to
18 the river through large lines.

19 Q. Was that pump station the only pump
20 station that water came in through?

21 A. River water?

22 Q. River water.

23 A. Yes.

24 Q. So when you were called back to the
25 site to deal with these valves, where were those

1 Malopolski - Confidential

2 valves located?

3 MR. REYNOLDS: Objection, asked and
4 answered.

5 A. They were in the street, in manholes
6 on West Street.

7 Q. On West Street. How many were there?

8 A. We closed three.

9 Q. On that day?

10 A. Yes.

11 Q. Were there others that you were
12 unable to close?

13 A. No. That was our mission. Those
14 were the three valves that connected the
15 subgrade areas with the river.

16 Q. How did you get to those valves?

17 MR. REYNOLDS: Objection, asked and
18 answered.

19 A. We asked to have the big loaders that
20 were there, the Cat 966, to push the debris out
21 of the way.

22 Q. Did you do anything else at the site
23 that day?

24 A. Yes. I directed some of the urban
25 search and rescue teams that were going on.

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2 There were some stairways that were intact into
3 the subgrade and I was directing some of those
4 search teams by radio.

5 Q. Did you yourself go into the subgrade
6 area that day?

7 A. No. We were not allowed.

8 Q. Who did go down?

9 A. The urban search and rescue, FEMA
10 people.

11 Q. In the course of those search and
12 rescue missions, if you will, do you know if
13 those individuals went to or -- went to the
14 refrigeration plants that we've discussed today,
15 either one of them?

16 A. They tried to on that day, but they
17 were unsuccessful.

18 Q. Why?

19 A. Collapse, high water.

20 Q. Which stairwells were intact?

21 A. The stairwell that I directed them
22 through was the J1 stair.

23 Q. Which was located where?

24 A. It was on Vesey Street and it went to
25 the subgrade underneath World Trade 6.

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2 Q. Can I direct your attention to
3 Exhibit 34, page 194758. Are you able to locate
4 that stairwell you just described on this
5 drawing?

6 A. Yes. It's at the top left-hand
7 corner there.

8 Q. Could you take that red pen in front
9 of you and circle that, please?

10 A. (Witness complying.)

11 Q. And do you know if there were any
12 other stairwells intact that day?

13 A. I know other areas that were
14 accessible. I don't know of any other
15 stairwells that were as intact. I know that
16 people were going down the north and south
17 projections. I know that people were going down
18 the Barclay Street ramp.

19 Q. Anything else?

20 A. On that day, that was about it. It
21 was very early in the process.

22 Q. Referring to J1, do you know how far
23 people were able to get before they were blocked
24 by debris or water?

25 A. On that day, I believe they got down

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2 to the B5 level, but they were not able to go to
3 B6 because of high water. And they fanned out
4 in a south, southerly direction and an easterly
5 direction until they ran into areas of collapse.

6 Q. Do you know how far they got before
7 they ran into those areas of collapse in a
8 southerly and easterly direction?

9 A. No, I don't, but when they came up,
10 you know, we talked about landmarks down there
11 and then they marked up drawings.

12 Q. What drawings did they mark up?

13 A. We had some base building drawings
14 on-site at that time.

15 Q. And you were using those to indicate
16 locations of where there was collapse and
17 debris, is that correct?

18 A. Correct.

19 Q. And when you say we, who is we?

20 A. Myself and the USAR people, urban
21 search and rescue, they refer to them as USAR.
22 They are teams from all across the United
23 States. I believe that the people I had were
24 from Minnesota.

25 Q. What happened to those drawings, do

1 Malopolski - Confidential

2 you know?

3 A. No.

4 Q. Did you keep copies of them?

5 A. No, they were not mine.

6 Q. Can you indicate -- is it possible
7 for you to indicate on this same page these
8 other three locations where you know people were
9 able to access the area?

10 A. I can show two of them. Here's the
11 north projection. Here's the south projection.
12 But the Barclay Street ramp is not shown here.
13 It's on a drawing from a higher level.

14 Q. Can I refer you to page 194759?

15 A. Correct. Yes, that's the Barclay
16 Street ramp.

17 Q. Can you indicate that? Draw a circle
18 and if you could draw a line to it and indicate
19 Barclay Street ramp?

20 A. (Witness complying.)

21 Q. And initial that too, if you would.

22 A. (Witness complying.)

23 Q. Do you know if any of the teams in
24 the underground area that day were able to gain
25 access to or see the refrigeration plant?

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2 MR. REYNOLDS: Objection, asked and
3 answered.

4 A. Not on that day.

5 Q. What about the emergency generators,
6 were you able to get access to those?

7 A. I don't know, but I don't think so
8 because of the high water. The emergency
9 generators were on B6.

10 Q. They were not functioning the day you
11 were there, correct?

12 A. Nothing was functioning that day.

13 Q. When was the next time you went to
14 the site?

15 A. I don't know, but I went
16 intermittently from time to time, as requested.

17 Q. Between September 11th, 2001 and
18 today, can you estimate how many times you've
19 been at the site?

20 A. Well, I work at the site now, so I'm
21 there every day.

22 Q. Let me take you back to the time.
23 When did you start working at the site again?

24 A. I believe it was probably -- I'm not
25 sure of the date, but it was late July, maybe

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2 the 22nd.

3 Q. Between September 11th and that
4 approximate date, about how many times did you
5 go to the site?

6 A. About 10.

7 Q. Can you describe for me what you did
8 during those visits?

9 A. Usually the same procedure, to go to
10 help out and identify areas that, you know,
11 people were looking for utility connections in
12 the street, sewer connections, the stuff we
13 talked about, steam, water. So they were trying
14 to locate those things.

15 And to try to help people reach the
16 refrigeration plants because there was a great
17 concern about the amount of freon that was down
18 in the vessels with all the people working on
19 the site.

20 Q. And you were asked to perform these
21 tasks over time, not all on the same day,
22 correct?

23 A. Correct.

24 Q. At what point did you first, you
25 yourself, first go to the underground area?

1 Malopolski - Confidential

2 A. I don't remember.

3 Q. Can you estimate the date?

4 A. I don't remember.

5 Q. Do you know at what point anyone
6 first gained access to the refrigeration plant?

7 A. I know when it was, but I can't tell
8 you. I don't know. I told you I'm very bad
9 with dates and time frames.

10 Q. I understand.

11 A. But I was in constant contact with
12 the people working there, and you know, we got
13 there.

14 Q. Was it a matter of weeks or a matter
15 of months?

16 A. I think it was a matter of months.

17 Q. When -- are you aware of the amount
18 of damage that was done to the refrigeration
19 plant based on information you received from
20 individuals who gained access to those
21 refrigeration plants?

22 MR. REYNOLDS: Objection. Calls for
23 speculation, hearsay. You can answer.

24 A. I have heard some stories about what
25 condition it was in.

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2 Q. Can you tell me what you know about
3 what condition it was in?

4 A. I could give you a little story.
5 Some people I know got down to the level one
6 refrigeration machine. And when they climbed
7 down to it, they said it looked like it was in
8 perfect condition. All that they could see, it
9 looked like it was standing there; yes, of
10 course it was covered with debris, but it looked
11 like it was intact.

12 And then later on they found out that
13 it in fact had a giant steel beam driven right
14 through the vessels. They thought, you know,
15 wow, here's a machine that the freon is probably
16 intact. And then later on when they were able
17 to access it from a different direction, they
18 found out that there was a beam driven right
19 through it. So things were not always as they
20 appeared from the limited view you could get.

21 Q. You said some people you know saw
22 that?

23 A. Yes.

24 Q. Who was that?

25 A. Peter Rinaldi.

1 Malopolski - Confidential

2 Q. Anyone else?

3 A. He was the one that I talked to about
4 it.

5 Q. Were you able to determine, Port
6 Authority or any other entities working at the
7 site, able to determine whether there was still
8 freon at the chiller plants?

9 A. Yes.

10 MR. REYNOLDS: Object to the form.

11 Q. And what were they able to determine
12 about that?

13 A. As they uncovered more and more of
14 it, they were able to get people down. And I
15 know the people from York International that we
16 had worked with, they were the contractor, they
17 were the producers and suppliers of the
18 machinery, they were the people that repaired it
19 in 1993.

20 And I had talked to some of those
21 people. They were on the site continuously
22 until all the freon was removed. So they kept
23 me updated.

24 Q. How long did it take to do that?

25 A. Months.

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2 Q. You've described the damage you're
3 aware of to chiller unit number one, I believe?

4 A. Yes.

5 Q. Was there damage to the other six
6 units?

7 A. Oh, yes.

8 Q. Can you describe that?

9 A. That's the only one that I have a
10 vivid recollection of a good anecdotal story.
11 All the rest, I don't have anything to tell you.

12 Q. Do you know if any of the equipment
13 in the refrigeration room was able to be
14 salvaged for reuse?

15 A. It was all cut up and thrown away.

16 Q. Do you have any information about the
17 amount of damage that was caused to the
18 emergency generators?

19 A. I was in the emergency generator
20 plant and it was remarkably intact. The slab
21 above it did not collapse. The collapse zone
22 was right outside of it. And we were able to
23 walk around in there and all the machinery
24 was -- it looked like it was in running order.

25 Q. Was it functioning?

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2 A. Oh, no.

3 Q. Why not?

4 MR. REYNOLDS: If you know.

5 Q. If you know.

6 A. The buildings fell down. Everything
7 collapsed, you know, everything was done.

8 Q. Was there any source of power for the
9 emergency generators?

10 A. The emergency generators were the
11 source of power.

12 Q. Is it your testimony that you could
13 turn them on and if there was something to
14 supply, they would actually work?

15 A. That's not my testimony. I don't
16 know. All I said was they looked remarkably
17 intact; they looked as if they could run. I
18 mean they weren't buried in concrete and there
19 were no steel beams across them. I was able to
20 walk around.

21 Q. Were those units salvaged and reused?

22 MR. REYNOLDS: Objection, only if you
23 know.

24 A. I don't know.

25 Q. You don't know if they could have

1 Malopolski - Confidential

2 worked or not, though, is that correct?

3 A. In my opinion, when I looked at them,
4 yes, I think they could have. Just my opinion.

5 Q. At what point -- you talked about the
6 water that was in the B6 level. Do you know
7 what the source of that water was?

8 A. It was all the broken piping for the
9 buildings, domestic water, sanitary waste, fire
10 systems, river water, plus the fire department
11 was pouring thousands of gallons on the fire for
12 an extended period of time. And then we assumed
13 that the river was backflowing into the subgrade
14 until we shut those valves.

15 Q. And those fires that you mentioned,
16 those fires went on for months, didn't they?

17 A. Yes.

18 Q. At what point was the water supplied
19 from the B6 level, do you know?

20 A. I don't know.

21 Q. Do you know what measures had to be
22 taken in order to ensure that the water supply
23 didn't fade out?

24 MR. REYNOLDS: Object to the form and
25 object to lack of foundation.

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2 A. I know pieces of it. I don't know the
3 whole picture.

4 Q. Can you tell me what you know?

5 A. I know that we shut those large pipes
6 and it seemed to make a difference. And I know
7 that they had plugged the PATH tunnels running
8 to New Jersey with concrete to make sure that it
9 didn't flow back into Jersey City.

10 And they were pumping constantly on
11 the New Jersey side because the PATH tunnels
12 were at the lowest level of the subgrade. And
13 they just pumped and pumped until they got it
14 all down. When they stopped pouring water on
15 the fire, they were able to gain enough ground
16 to pump it out.

17 Q. Were you involved with -- strike
18 that.

19 There were Port Authority employees
20 at the clean-up site daily, were there not?

21 A. Yes.

22 MR. REYNOLDS: Objection, lack of
23 foundation.

24 Q. And one of those people was Peter
25 Rinaldi, correct?

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2 A. Yes.

3 Q. And Peter Rinaldi's responsibility
4 was to assist in the clean-up in whatever manner
5 was necessary on behalf of the Port Authority,
6 is that right?

7 MR. REYNOLDS: Object to the
8 characterization of his responsibilities.
9 If you know.

10 A. I don't know.

11 Q. Your involvement in the clean-up was
12 much less than Peter Rinaldi's, is that correct?

13 A. Yes.

14 Q. When you were at the clean-up site,
15 to whom did you report?

16 A. Different people at different times.
17 I met with Peter Rinaldi. I met with Carl
18 Passeri. I met with Ray Finnegan. I met with
19 Tom O'Connor. I met with Ed McGinley. So these
20 were different people, I met with Bill Sullivan,
21 that had requested my assistance from time to
22 time.

23 Q. Are these all Port Authority
24 employees?

25 A. Yes.

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2 Q. Did you ever coordinate with anyone
3 outside of the Port Authority in connection with
4 your activities at the clean-up site?

5 A. The urban search and rescue people.

6 Q. Anyone else?

7 A. Some of the FEMA people.

8 Q. Anyone else?

9 A. Some of the DDC people.

10 Q. Anyone else?

11 A. That would be it.

12 Q. Are you aware that the DDC was
13 attempting to map the debris at the World Trade
14 Center site?

15 A. Yes.

16 Q. And by DDC, I understand that to mean
17 the Department of Design and Construction, is
18 that correct?

19 A. That's correct.

20 Q. Were you involved in the efforts to
21 map the debris at the World Trade Center site at
22 all?

23 A. As I had described earlier, with the
24 urban search and rescue people, when they went
25 down, when they came back up, we would take a

1 Malopolski - Confidential

2 map and talk about how far they got.

3 And as it developed, I would see, you
4 know, it would get better and better. They
5 would have an area that was pink that would say,
6 total collapse. And yellow would be partial
7 collapse. And blue would be extremely unstable.

8 So every time that I went back there,
9 that body of knowledge grew as they were able to
10 get deeper and deeper into the subgrade areas.

11 Q. So you were able to look at that
12 information, but were you involved in creating
13 those maps or gathering the information to
14 create the maps?

15 A. I helped with that from time to time.

16 Q. How did you help?

17 A. By talking to the urban search and
18 rescue people by radio as they went around the
19 subgrade areas, because I knew -- you know, they
20 would radio back and say we're at a rollup door,
21 we just went about 50 feet east, we're at a
22 rollup door, where are we?

23 And I'd say, if you go through that
24 rollup door, if you can get around that rollup
25 door and if you're heading north, you know, 50

1 Malopolski - Confidential

2 feet, follow that corridor and turn left, you
3 should be headed towards the refrigeration
4 plant.

5 Q. Do I understand your earlier
6 testimony to be that you did not keep any
7 documentation in connection with that effort,
8 you, yourself?

9 A. No, I never had any.

10 Q. That was information you saw when you
11 went to the site, but not information you had in
12 your possession?

13 A. Correct.

14 Q. Do you know whether anyone at the
15 World Trade Center site was attempting to
16 determine which piece of debris came from which
17 tower?

18 A. I read that in the newspapers, yes.

19 Q. Do you have any other information
20 about it besides that?

21 A. No.

22 Q. You didn't ever see anyone doing that
23 personally?

24 A. No.

25 (Discussion off the record.)

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2 Q. Was your radio functioning on
3 September 11th, 2001?

4 A. Yes.

5 Q. In connection -- did it function
6 after the collapse of World Trade Center 2?

7 A. Yes.

8 Q. Did it function all day?

9 A. Yes.

10 Q. In connection with your work at the
11 clean-up site, did you need to access the
12 sectionalizing valves that we've discussed
13 today?

14 A. No.

15 MS. GIFFIN: Just one more document
16 to show you, which is PORT/SRI 165375 to
17 165376.

18 (Malopolski Exhibit 53, document
19 bearing Bates Nos. PORT/SRI 165375 and
20 165376, marked for identification, as of
21 this date.)

22 Q. I don't intend to ask you very
23 detailed questions about this document. You
24 should feel free to review it, but I don't think
25 you need to review it in detail.

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2 A. Okay.

3 Q. Have you seen this document before,
4 sir?

5 A. No.

6 Q. This is an email exchange that went
7 on in the course of early June 2001, according
8 to this document.

9 I want to draw your attention to the
10 fourth sentence in that first email paragraph,
11 which says, "Remember Ensec relocated the
12 equipment to the new OCC several years ago and
13 is responsible for maintaining the equipment."
14 Do you see that?

15 A. Yes.

16 Q. Do you know who Ensec is?

17 A. No.

18 Q. Have you ever heard of them?

19 A. By reading the email, I've learned
20 that Ensec is the, it seems anyway --

21 MR. REYNOLDS: Don't speculate.

22 Q. Yes. All I actually need to know is
23 do you have any independent knowledge about
24 Ensec outside of what you just read?

25 A. No. All my knowledge about Ensec is

1 Malopolski - Confidential

2 contained in this paper, and I can infer what it
3 is, but --

4 Q. Have you heard of an individual named
5 Angus Kress Gillespie?

6 A. Yes.

7 Q. You're aware that he wrote a book on
8 the Twin Towers?

9 A. Yes.

10 Q. Did you talk to him while he was in
11 the process of researching that book?

12 A. No.

13 Q. Did you read that book?

14 A. No.

15 MS. GIFFIN: Mr. Malopolski, that's
16 all the questions that I have for you. Let
17 me again reiterate that we are very sorry
18 for your loss and experiences at the World
19 Trade Center, and we thank you very much for
20 your time.

21 MR. REYNOLDS: No other questions?

22 (Continued on the next page.)

23

24

25

Malopolski - Confidential

THE VIDEOGRAPHER: We're now going off
the record. The time is 3:58 p.m. This is
the end of the tape labeled number 3 of
Volume II, concluding the videotaped
deposition of Mr. Dennis Malopolski.

(Time noted: 4:00 p.m.)

DENNIS MALOPOLSKI

Subscribed and sworn to before me
this ____ day of _____, 2002.

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C E R T I F I C A T E

STATE OF NEW YORK)

: ss.

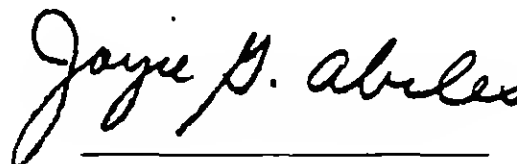
COUNTY OF NEW YORK)

I, JOYCE G. ABELES, a Notary Public
within and for the State of New York, do
hereby certify:

That DENNIS MALOPOLSKI, the witness
whose deposition is hereinbefore set forth,
was duly sworn by me and that such
deposition is a true record of the testimony
given by the witness.

I further certify that I am not
related to any of the parties to this action
by blood or marriage, and that I am in no
way interested in the outcome of this
matter.

IN WITNESS WHEREOF, I have hereunto
set my hand this 21st day of October, 2002.



JOYCE G. ABELES

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-----I N D E X-----

3

WITNESS EXAMINATION BY PAGE

4

DENNIS MALOPOLSKI MS. GIFFIN 154

5

6

7

-----INFORMATION REQUESTS-----

8

REQUESTS: Page 295, Line 3

9

Page 295, Line 22

10

11

12

-----EXHIBITS-----

13

MALOPOLSKI EXHIBITS FOR ID.

14

Malopolski Exhibit 34, document bearing Bates

15

Nos. PORT/SRI 194571 through 194818, marked for

16

identification..... 157:5

17

Malopolski Exhibit 35, document bearing Bates

18

Nos. EXP 009808 through 010067, marked for

19

identification..... 160:11

20

Malopolski Exhibit 36, document bearing Bates

21

Nos. PORT/SRI 208699 through 208805, marked for

22

identification..... 167:9

23

Malopolski Exhibit 37, document bearing Bates

24

No. PORT/SRI 203758, marked for identification

25

..... 172:17

1	
2	Malopolski Exhibit 38, document bearing Bates
3	No. PORT/SRI 203760, marked for identification
4 173:12
5	Malopolski Exhibit 39, document bearing Bates
6	No. PORT/SRI 203763, marked for identification
7 181:13
8	Malopolski Exhibit 40, document bearing Bates
9	No. PORT/SRI 203762, marked for identification
10 182:19
11	Malopolski Exhibit 41, document bearing Bates
12	No. PORT/SRI 203761, marked for identification
13 183:22
14	Malopolski Exhibit 42, document bearing Bates
15	No. PORT/SRI 203759, marked for identification
16 184:19
17	Malopolski Exhibit 43, document bearing Bates
18	No. PORT/SRI 203757, marked for identification
19 186:7
20	Malopolski Exhibit 44, document bearing Bates
21	No. PORT/SRI 141147, marked for identification
22 191:22
23	Malopolski Exhibit 45, document bearing Bates
24	No. PORT/SRI 141148, marked for identification
25 194:8

1
2 Malopolski Exhibit 46, document labeled LZA
3 Technology UB-6, marked for identification.....
4 253:20
5 Malopolski Exhibit 47, document bearing Bates
6 Nos. PORT/SRI 070012, marked for identification
7 303:23
8 Malopolski Exhibit 48, document bearing Bates
9 Nos. SILV 32-002640, 003003 and 003004, marked
10 for identification..... 307:10
11 Malopolski Exhibit 49, document bearing Bates
12 No. PORT/SRI 162181, marked for identification
13 319:24
14 Malopolski Exhibit 50, document bearing Bates
15 No. SILV 52-001789, marked for identification
16 334:11
17 Malopolski Exhibit 51, document bearing Bates
18 No. PORT/SRI 165211, marked for identification
19 335:18
20 Malopolski Exhibit 52, document bearing Bates
21 Nos. GMAC 002-07724 through 07730, marked for
22 identification..... 339:15
23 Malopolski Exhibit 53, document bearing Bates
24 Nos. PORT/SRI 165375 and 165376, marked for
25 identification..... 395:18

WORD INDEX

4

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<p>A</p> <p>Abeles 150:24</p> <p>151:11 399:7,25</p> <p>ability 256:8 367:5</p> <p>able 197:16 200:19</p> <p>212:6,22 216:11</p> <p>225:10,11 230:7</p> <p>252:3 259:13</p> <p>270:5 276:11</p> <p>277:4,22 278:18</p> <p>280:14,15 325:25</p> <p>333:23 339:10</p> <p>346:14 367:12</p> <p>379:3,23 380:2</p> <p>381:9,24 382:6</p> <p>385:16 386:5,7,11</p> <p>386:14 387:13,22</p> <p>388:19 390:15</p> <p>393:9,11</p> <p>absence 241:13</p> <p>acceptable 338:2,21</p> <p>access 204:25</p> <p>299:20 309:20</p> <p>381:9,25 382:6</p> <p>384:6,20 385:17</p> <p>395:11</p> <p>accessed 284:23</p> <p>286:19</p> <p>accessible 379:14</p> <p>accompany 175:10</p> <p>176:25</p> <p>accomplish 248:5</p> <p>249:6</p> <p>accomplished</p> <p>247:17</p> <p>account 331:2,4,11</p> <p>331:14 332:15</p> <p>333:8,17,20,24</p> <p>accountant 337:20</p> <p>accuracy 182:11</p> <p>183:14</p> <p>accurate 166:15,23</p> <p>180:25 181:8</p> <p>182:15 183:18</p> <p>185:24 186:3,25</p> <p>187:4 211:22</p> <p>252:19 253:9</p> <p>256:4,10 310:10</p> <p>310:22 311:24</p> <p>acre 359:24</p> <p>action 247:12</p> <p>375:13 399:16</p> <p>activated 205:15</p> <p>activities 318:13</p> <p>392:4</p> <p>activity 318:5</p> <p>actual 196:9 288:3</p> <p>355:18 356:5,8,12</p> <p>359:4</p> <p>additional 278:16</p> <p>344:10 345:6</p> <p>address 167:5 333:9</p> <p>adjacent 248:23</p> <p>262:6 267:20</p> <p>adjournment</p> <p>151:10</p>	<p>advanced 244:24</p> <p>adverse 338:20</p> <p>advertisement</p> <p>295:7</p> <p>affect 338:8,23</p> <p>affixed 206:23</p> <p>207:16</p> <p>ages 244:24</p> <p>ago 253:2 264:12</p> <p>359:15 396:12</p> <p>agreed 222:12</p> <p>364:4,5,7</p> <p>agreement 180:13</p> <p>303:18 305:4,9,19</p> <p>306:2 307:17</p> <p>308:5 316:2 340:4</p> <p>340:7</p> <p>ahead 219:25</p> <p>242:13 268:17,22</p> <p>air 313:9</p> <p>Airport 161:10</p> <p>AIW 195:20 202:20</p> <p>243:16</p> <p>Alan 152:8 294:14</p> <p>304:16 305:22</p> <p>315:16 317:20</p> <p>333:6</p> <p>alarm 171:11</p> <p>234:17 247:11</p> <p>355:18 356:4,9</p> <p>alarms 251:9 355:6</p> <p>355:7,8 356:2,17</p> <p>356:18</p> <p>allocated 322:8</p> <p>323:24 326:23</p> <p>allow 327:11 337:13</p> <p>378:7</p> <p>alterations 225:22</p> <p>317:18</p> <p>altered 174:4,5</p> <p>317:14</p> <p>alternatives 250:11</p> <p>250:19</p> <p>Amatuccio 357:24</p> <p>AMERICA 150:13</p> <p>Americas 152:18</p> <p>ammonium 262:9</p> <p>amount 269:23</p> <p>327:4 338:7 344:3</p> <p>370:22 383:17</p> <p>384:17 387:17</p> <p>amounted 365:15</p> <p>analogy 205:8</p> <p>ANDREW 152:14</p> <p>anecdotal 265:11</p> <p>387:10</p> <p>Anemone 341:22</p> <p>ANFO 262:9</p> <p>Angus 397:5</p> <p>ankle 370:12</p> <p>announcement</p> <p>234:20</p> <p>announcements</p> <p>172:3</p> <p>answer 154:19</p>	<p>155:5 190:9 203:8</p> <p>230:19 232:14</p> <p>351:2,23 360:18</p> <p>384:23</p> <p>answered 197:21</p> <p>282:25 291:18</p> <p>377:4,18 382:3</p> <p>answers 154:21</p> <p>anybody 281:14</p> <p>294:16</p> <p>anymore 330:23</p> <p>370:6</p> <p>anyway 396:20</p> <p>apart 264:23</p> <p>280:14 349:21,23</p> <p>apologize 184:22</p> <p>appear 184:6,22</p> <p>196:11 213:13</p> <p>243:19 254:2</p> <p>316:4</p> <p>appeared 385:20</p> <p>appears 174:11</p> <p>192:13 200:4</p> <p>201:10 203:18</p> <p>214:13 220:11</p> <p>245:19 257:9,20</p> <p>305:13 308:13</p> <p>316:2 331:4</p> <p>apply 184:15</p> <p>appreciate 288:7</p> <p>374:16</p> <p>approximate 383:4</p> <p>approximately</p> <p>225:12 237:17,22</p> <p>238:15 255:14</p> <p>262:25 277:15</p> <p>280:6 286:14</p> <p>359:24 364:10</p> <p>April 274:16,22,23</p> <p>276:22 277:15</p> <p>Ardizzone 358:20</p> <p>area 167:4 189:12</p> <p>198:15 205:24,25</p> <p>213:2,14 224:18</p> <p>252:10 255:21</p> <p>264:6 270:7</p> <p>293:20 323:25</p> <p>370:10 371:11</p> <p>378:6 381:9,24</p> <p>383:25 393:5</p> <p>areas 261:9 264:8</p> <p>265:10 277:21</p> <p>278:2,4 284:8</p> <p>299:21 326:24</p> <p>377:15 379:13</p> <p>380:5,7 383:10</p> <p>393:10,19</p> <p>armies 282:15</p> <p>Arps 151:8 153:10</p> <p>arrangement</p> <p>278:14 279:2</p> <p>arrow 199:22</p> <p>Artie 369:7</p> <p>asb 370:12</p> <p>aside 242:6 263:4</p> <p>291:3,14 292:3</p>	<p>302:23</p> <p>asked 160:17</p> <p>170:14,15,16</p> <p>174:25 189:14</p> <p>226:22 282:24</p> <p>288:20 291:17,20</p> <p>301:20 329:13</p> <p>364:2 375:14,18</p> <p>377:3,17,19 382:2</p> <p>383:20</p> <p>asking 209:5 220:25</p> <p>247:2 320:16</p> <p>348:14 352:23</p> <p>354:6 364:12,14</p> <p>assembly 272:14</p> <p>assess 338:14,18</p> <p>339:8</p> <p>assign 240:15</p> <p>assigned 162:18,21</p> <p>163:7 177:14</p> <p>222:21</p> <p>assist 165:3 172:4</p> <p>391:4</p> <p>assistance 391:21</p> <p>assistant 330:24</p> <p>associated 318:13</p> <p>assume 155:6 165:9</p> <p>167:3 168:7</p> <p>188:25 239:22</p> <p>251:19 257:3</p> <p>259:12 354:15</p> <p>assumed 389:12</p> <p>assuming 203:4</p> <p>243:25 361:24</p> <p>assumption 195:5</p> <p>assumptions 354:18</p> <p>assure 293:23</p> <p>as-built 209:15</p> <p>attack 297:13,19,21</p> <p>298:4 302:17</p> <p>366:8</p> <p>attempting 215:13</p> <p>317:12 392:13</p> <p>394:15</p> <p>attention 163:13</p> <p>196:8 198:13</p> <p>199:12 203:16</p> <p>213:9,24 257:12</p> <p>304:23 325:2</p> <p>379:2 396:9</p> <p>Attorneys 152:5,11</p> <p>152:17 153:11,17</p> <p>August 275:11,15</p> <p>275:25</p> <p>author 320:21</p> <p>authored 335:2</p> <p>Authority 150:10</p> <p>153:4,11,25</p> <p>156:23 159:2,8,11</p> <p>160:6 165:15,24</p> <p>166:19,22 168:10</p> <p>209:17 215:20,22</p> <p>216:19 217:9</p> <p>223:12,20,24</p> <p>225:14,20 227:12</p> <p>227:17,23 228:4</p>	<p>228:18 229:4</p> <p>238:16 239:12,25</p> <p>240:7 260:12,14</p> <p>281:14 293:17</p> <p>317:11,15 321:15</p> <p>330:11,13 332:13</p> <p>338:4,13 340:3,15</p> <p>341:9 343:22</p> <p>345:5 350:22</p> <p>353:5 375:19</p> <p>386:6 390:19</p> <p>391:5,23 392:3</p> <p>Authority's 259:11</p> <p>authorized 241:12</p> <p>automatic 327:10</p> <p>auxiliary 273:7</p> <p>312:24</p> <p>available 277:10</p> <p>313:3,25</p> <p>Avenue 152:6,18</p> <p>153:6</p> <p>average 275:22</p> <p>avoid 364:25</p> <p>await 234:22 236:2</p> <p>aware 190:14</p> <p>228:14 231:4</p> <p>239:11 251:17</p> <p>258:11 296:23</p> <p>346:7 351:5</p> <p>357:19 358:5</p> <p>384:17 387:3</p> <p>392:12 397:7</p> <p>a.m 151:4 154:12</p> <p>220:3,6 242:16</p> <p>243:2</p> <p>B</p> <p>B 315:25</p> <p>back 154:15 160:16</p> <p>175:11 211:16</p> <p>213:24 216:4</p> <p>222:8 224:22</p> <p>244:5 257:19</p> <p>263:18 267:25</p> <p>272:2,4 274:17</p> <p>282:17 288:8</p> <p>307:25 309:18,23</p> <p>318:18 329:2</p> <p>334:25 339:7</p> <p>345:10 349:22,25</p> <p>356:20 363:12</p> <p>368:15 375:5,14</p> <p>375:24 376:17,24</p> <p>382:22 390:9</p> <p>392:25 393:8,20</p> <p>backflowing 389:13</p> <p>backup 251:8,18,22</p> <p>backups 250:15,22</p> <p>250:23,25</p> <p>bad 197:25 198:4</p> <p>212:22 384:8</p> <p>badly 272:22</p> <p>273:17,19 283:4</p> <p>bag 356:14</p> <p>bailiwick 322:11</p> <p>BALLANTINE</p>
---	--	---	--	---

152:16 band 224:25 225:2 225:4,5,9 bands 224:23,24 225:8 BANK 150:15 bar 294:9 Barclay 324:14 379:18 381:12,15 381:19 barriers 299:11 300:2 bars 266:5 BARTLETT 152:4 base 175:17 192:8 192:11 194:15 209:13,23 220:10 221:17 336:17 338:8 380:13 based 179:18 198:6 200:9 211:17 235:5 255:11,12 258:3,20 333:23 365:7 384:19 basement 375:14 basically 267:14 basis 295:14 Bates 157:3,6 160:10,12 167:10 172:15,18 173:11 173:13 181:14 182:20 183:23 184:20 186:8 191:19,20,23 194:6,9 251:25 303:21,24 307:7,9 307:11 319:22,25 334:9,12 335:19 339:13,16 395:19 400:14,17,20,23 401:2,5,8,11,14 401:17,20,23 402:5,8,11,14,17 402:20,23 battery 250:15,22 250:23,25 251:8 251:12,18 299:7 beam 385:13,18 beams 388:19 bearing 157:6 160:12 167:10 172:18 173:13 181:14 182:20 183:23 184:20 186:8 191:23 194:9 303:24 307:11 319:25 334:12 335:19 339:16 395:19 400:14,17,20,23 401:2,5,8,11,14 401:17,20,23 402:5,8,11,14,17 402:20,23 began 156:6 beginning 177:11	177:13 begins 321:16 behalf 375:23 391:5 believe 155:25 156:8,17,21 161:4 166:17,17 169:12 169:17 184:4 188:20 189:2,7 192:10 198:16,20 199:12 201:23 202:2,5 204:21 206:10 211:21 215:9 219:9 220:14 221:14 222:12 236:24 239:4 241:10,14 243:23 245:6,23 258:14 260:15,22 262:7 276:15 282:14,17 287:11 290:23 300:25 304:7,19 307:5 315:19 322:12 324:8 330:17 343:23 346:13,24 351:17 364:6 379:25 380:23 382:24 387:3 believed 201:19 belonged 225:8 best 180:7 210:22 256:8 259:13 264:4 322:6 364:25 better 155:5 180:18 191:9 232:3,8 256:20 268:2 393:4,4 beyond 263:9 265:8 295:21 301:15 362:8 bid 159:24 big 178:22 213:2 217:12 249:5,11 266:14 314:19 318:11 341:7 368:11 377:19 bigger 212:19 244:23 bill 299:23 321:18 329:16 375:23 391:20 billed 321:18,20 329:16 billing 180:20 332:2 333:9 binder 260:7 294:11,12 binders 244:20 bit 184:23 221:24 292:16 black 253:14 256:17 267:23,24 268:3 blast 262:22 264:20 264:25 265:4	274:16 block 193:3,4,5,9 blocked 379:23 blood 399:17 blown 263:8 264:23 blue 249:5,12 268:2 393:7 board 167:25 178:23 boarded 373:14 boat 370:14,19,20 373:15 Bob 373:9 body 217:18 393:9 bold 342:12 350:20 bomb 262:5,7,13 263:16 266:2 268:24 281:22 284:12 299:12 300:4 bombing 260:10 261:5,21 263:22 265:21 266:22 281:3,10,20 282:8 282:23 283:18,24 284:7,18 297:17 298:12 300:11 bonus 344:17 book 287:21,23 292:20 397:7,11 397:13 books 244:20 bottom 164:9,13 196:10 197:9 267:18,19 269:19 269:20 bounded 253:13 box 271:17,22 boy 298:18 breached 271:19 281:22 breaching 263:5 break 203:11,14 219:25 221:20 319:4 365:9 breathing 367:3 bridge 376:4 brief 271:10 312:3 319:3 briefly 205:5 220:8 246:13 249:25 277:24 307:25 363:10 bring 207:20 208:6 208:9 210:24 broadcast 357:3 broken 265:6 271:15,20,20 312:7 322:21 389:8 brothers 359:13 brought 274:17 282:15 291:6 376:6 build 316:22 building 159:19	171:12 175:17 188:19 192:8,11 193:14 194:15,20 209:13,13,23 211:13 220:10 221:17 224:6 225:5 235:2,8 246:15 261:13 275:13 294:17 299:12 300:24 308:14,19 309:2,8 310:3,8,15,19 311:21 316:23,24 317:12 322:20 336:17 337:13 338:8 366:5,6,11 367:6,24 368:18 369:2 372:4,14 380:13 buildings 204:15 223:19 303:11 316:20,21 317:13 317:16 318:3 388:6 389:9 built 160:2 270:9,22 277:2 278:13 317:5,6 bunch 368:5 370:17 buried 388:18 burned 266:15,15 273:20 business 150:4 306:17 337:21 busted 283:9 button 294:7 356:16 B1 163:24 189:4,14 189:18,22 204:18 207:9,13 208:4 249:13 324:13,21 324:23 325:20 326:3 B2 262:5 B3 311:3,7,12 B4 311:3,8,12 B5 267:8 312:17 313:16,22 314:18 380:2 B6 250:13 252:4,11 252:21 254:3,12 254:19,20 312:19 312:21 313:16,21 313:24 314:23 315:3 323:16,21 380:3 382:9 389:6 389:19 C C 152:2,8 153:2 348:23 399:2,2 cables 322:18 CAD 175:12 calculated 262:8 275:21,21 calendar 217:21,22 219:4 225:21	287:9 345:2 call 213:20 217:3,5 217:6 218:19 219:12,18,19 221:23,23 226:14 241:11 299:15 318:18 319:2 330:22 356:20,22 356:24 called 170:24 193:3 211:15 219:16 221:21 234:9,11 234:13 258:15 270:13 303:17 318:20 322:18 342:4 356:12 363:14 375:5,23 376:24 calling 221:25 242:6 368:25 calls 294:18 360:16 384:22 capacities 352:6 capacity 162:17 215:21 222:24 223:10 235:15 240:16 251:3 268:13 275:21 279:5,6 313:6 345:7 364:15 capital 306:18 capture 311:4 car 266:15 273:21 care 240:15 241:11 Carl 391:17 Carlos 330:14,17 333:6 336:2,10 carry 178:14 280:3 carrying 178:15,16 cars 263:8 266:5 case 171:19 172:6 214:16 217:2 218:16,19 219:11 226:11 234:4,21 235:12,20 236:10 237:3 238:5,18 239:10,24 240:6 241:3 247:6 250:3 270:4 289:8 351:8 351:21 352:16 353:23 358:17 361:8 403:4 cases 230:20,20 231:11 250:15,21 250:23 cash 344:17 cast 357:15 Castaldo 358:10 casualty 306:19 Cat 377:20 caught 342:3 cause 364:24 caused 261:20 262:13 263:15,20 265:10 271:21 273:4 280:25
---	--	---	--	---

281:17,20 282:22 300:9,21 387:17 caveats 278:10 ceiling 204:19,23 206:9 265:25 266:3 280:14 ceilings 176:18 178:22 280:11 center 150:8,13,13 150:14,14 156:3,7 156:19 157:25 159:13 161:17 162:6 163:24 164:4,19 165:12 165:16,25 167:22 168:2,17,25 170:20 171:4,8,15 171:18,20 172:8 172:24 173:7,19 181:20 183:2 185:3 186:14 188:23 204:10 209:25 210:9 211:8,12,14 214:11 215:8,8,12 215:24,25 216:20 217:10 220:13,18 222:3,18 223:7,13 223:25 225:14 226:13 227:18,25 228:6 229:11,17 230:10 233:23,25 234:7 235:21 236:2,12,22 237:3 238:5,18 239:11 242:3 243:7,9 246:19 250:6 252:5 254:4 260:11,17,18,24 261:5,20 262:14 263:21 264:20 274:5,6 277:25 281:2 283:17 289:9,17,17,23 290:5,9,15,20 295:10 296:13,18 296:25 297:6,22 300:10 301:6,10 301:24 302:12,20 306:25 308:19 309:4,22,24 313:2 315:18 321:18 322:17 326:24 327:14 328:12 329:6 330:9 331:15 332:3,16 338:5 351:8,13,20 352:7,14,16 353:23 355:14 356:4 357:10,21 358:16 359:10,18 360:5,13,25 361:9 361:21,21,23 362:7,18 363:7 366:4 392:14,21 394:15 395:6	397:19 centers 170:24 210:4 221:12 248:22 central 235:3 264:5 309:19 316:14,16 316:17 346:21 centralized 309:3 Centravac 268:12 ceremony 318:8 certain 156:9 169:3 176:7 201:25 204:17 231:19 250:15,21 284:8 322:18 359:7 CERTIFICATES 150:17 certify 399:9,15 cetera 208:15 257:23 364:17 chain 206:15,18,20 207:9,18,23 chance 157:11 167:13 260:5 304:3 307:20 320:4 335:21 339:22 340:10 349:25 change 180:8 242:13 changed 180:6 236:16 238:13 239:23 chapter 264:13 characterization 316:4 323:4 336:19 338:16 339:2 343:12 344:7,23 352:18 391:8 characterize 320:10 characterized 310:2 336:16 characters 357:15 charge 229:10 347:16 358:3 Charles 229:9 302:7 303:3 Charlie 334:22 335:3,6 chart 196:22 197:6 202:15 check 156:9 321:11 321:22 327:6,9,10 327:13,22 checking 179:3 CHEUNG 152:14 161:2 166:5,7,16 171:16 180:16 190:18 193:21 195:12,17 196:3 200:22 202:13 208:25 209:10 210:20 211:25 214:22 215:4,17 216:23 219:3	228:11,20 229:5 229:14 231:8 233:9 240:11 250:10 253:23 255:17 256:23 261:6 262:18 282:24 288:22 289:3,24 297:9,23 298:15 301:11,25 302:6 303:13 305:21 308:16,24 309:11 310:4,13 312:2 316:6 325:20,23 331:17 332:5,17 335:13 339:4 340:9 345:9 345:19 346:3,10 347:24 348:13 353:12 354:5 Chi 302:7,10 303:2 334:21 Chiao 348:21,25 349:2 Chiao's 349:3 chief 237:25 240:16 357:18 358:13,15 358:22 chilled 266:12 268:14 312:13,17 chiller 254:11 275:24 276:9,11 277:4,22 278:6,18 278:21,22,24,25 279:17,18,19 313:13 386:8 387:3 chillers 266:18,20 266:25 267:8 268:12 271:3 276:7,21 277:20 278:2,3 279:12,14 279:23,25 280:17 280:19 chimneys 282:3 CHRISTINA 153:20 Chu 302:7,11,23 303:2 334:21 circle 196:15 213:7 214:2,5 255:23 256:4 263:6 379:9 381:17 circled 213:15 368:15 circulated 311:15 376:16 circulation 266:12 268:15 circumstances 355:21 357:21 citizen 281:11 city 326:18,21 390:9 civilians 370:17 clarification 320:16 clarify 155:4,23	246:25 363:3 clarifying 288:2,7 clarity 343:8 clarity's 232:6 clean 282:15 cleaners 282:16 cleanup 363:6 374:17,19 clean-up 390:20 391:4,11,14 392:4 395:11 clear 245:10 301:21 306:10 313:12 329:14 climb 176:18 climbed 370:14 385:6 clock 282:16 close 207:19 255:25 377:12 closed 377:8 closest 368:4 closets 208:13,20,24 209:8 closing 321:10 327:24 329:11 cloud 371:14 CMU 281:24 code 190:7 293:3 codes 159:23 collapse 371:12 378:19 380:5,7,16 387:21,21 393:6,7 395:6 collapsed 266:3 284:11 369:22 370:20 388:7 Collins 373:10 column 269:14,15 269:16,18,22 343:25 columns 343:3,9,10 343:16 come 175:18 177:15 300:19 303:9 349:25 355:4 356:10 357:2 373:15,20 375:5 375:14,24 coming 154:15 323:8 367:15 368:24 command 170:20 170:25 171:3,3,8 171:15,18 172:8 188:18 215:24 221:15 236:2,12 236:21 237:2 238:5,17 240:13 243:7,9 247:14,23 289:23 309:4,23 330:24 351:8,13 351:20 352:7,16 353:23 355:14 356:4,22 357:10 357:20 358:16	359:10,17 360:5 360:13,25 361:9 362:7,17 COMMERCIAL 150:10,16 common 211:5 308:13,18 310:2,8 310:15,19 311:21 311:25 317:13 324:3 commonly 224:17 communicate 155:5 communication 222:2 224:10,12 233:13 297:4 communications 223:17 290:13,18 296:4 301:4 302:18 303:9 305:18 compact 245:5 companies 291:4 298:7 company 152:17 290:19 complaints 294:18 complete 193:13 328:15,17 completed 180:24 275:25 328:14 completely 376:2 complex 223:7,13 223:25 233:25 248:18 249:17 251:2 252:5 254:4 261:14 268:16 277:3,5,21,22 278:19,22 279:15 281:2 293:14 295:10,12 306:15 306:25 308:20 309:22 311:2,16 315:19 316:3,13 317:5 322:9,13 323:8 324:4 326:25 329:7 331:16 338:5,23 complicated 198:3 complied 190:7 complying 256:14 257:6 268:21 315:14 325:17 326:11 379:10 381:20,22 comprehensive 291:21 compressor 271:24 272:6,10,17 279:8 279:10 compressors 278:24 278:24,25 279:4 311:18 computer 250:17 294:3,7 311:19 computerized 293:9 computers 337:23
---	---	---	--	--

Con 322:17 323:2,6 331:19,24 conceive 159:22 conceived 312:23 concentration 162:23 191:15 318:19 concept 159:22 371:6 concern 298:13 383:17 concerned 291:2 297:7,20 298:7 301:5 338:3 concerning 291:23 concluding 398:5 concourse 172:25 173:20 179:7,12 181:3,21 183:3 185:4 186:14 189:8,17 193:14 258:16 concrete 266:4 281:24 284:13 299:11 372:7 388:18 390:8 concurrent 261:12 condenser 271:22 271:24 272:7,10 272:18 310:14,18 311:2,7 condition 209:15 247:10 279:7 384:25 385:3,8 conditioning 313:9 conditions 175:8 176:13 conference 311:19 confidential 150:20 151:6 155:1 156:1 157:1 158:1 159:1 160:1 161:1 162:1 163:1 164:1 165:1 166:1 167:1 168:1 169:1 170:1 171:1 172:1 173:1 174:1 175:1 176:1 177:1 178:1 179:1 180:1 181:1 182:1 183:1 184:1 185:1 186:1 187:1 188:1 189:1 190:1 191:1 192:1 193:1 194:1 195:1 196:1 197:1 198:1 199:1 200:1 201:1 202:1 203:1 204:1 205:1 206:1 207:1 208:1 209:1 210:1 211:1 212:1 213:1 214:1 215:1 216:1 217:1 218:1 219:1 220:1 221:1 222:1 223:1 224:1 225:1 226:1 227:1 228:1 229:1 230:1 231:1 232:1 233:1 234:1	235:1 236:1 237:1 238:1 239:1 240:1 241:1 242:1 243:1 244:1 245:1 246:1 247:1 248:1 249:1 250:1 251:1 252:1 253:1 254:1 255:1 256:1 257:1 258:1 259:1 260:1 261:1 262:1 263:1 264:1 265:1 266:1 267:1 268:1 269:1 270:1 271:1 272:1 273:1 274:1 275:1 276:1 277:1 278:1 279:1 280:1 281:1 282:1 283:1 284:1 285:1 286:1 287:1 288:1 289:1 290:1 291:1 292:1 293:1 294:1 295:1 296:1 297:1 298:1 299:1 300:1 301:1 302:1 303:1 304:1 305:1 306:1 307:1 308:1 309:1 310:1 311:1 312:1 313:1 314:1 315:1 316:1 317:1 318:1 319:1 320:1 321:1 322:1 323:1 324:1 325:1 326:1 327:1 328:1 329:1 330:1 331:1 332:1 333:1 334:1 335:1 336:1 337:1 338:1 339:1 340:1 341:1 342:1 343:1 344:1 345:1 346:1 347:1 348:1 349:1 350:1 351:1 352:1 353:1 354:1 355:1 356:1 357:1 358:1 359:1 360:1 361:1 362:1 363:1 364:1 365:1 366:1 367:1 368:1 369:1 370:1 371:1 372:1 373:1 374:1 375:1 376:1 377:1 378:1 379:1 380:1 381:1 382:1 383:1 384:1 385:1 386:1 387:1 388:1 389:1 390:1 391:1 392:1 393:1 394:1 395:1 396:1 397:1 398:1 confused 371:23 connected 377:14 connection 156:18 161:18 185:16 186:18 288:13 296:25 298:13 300:6 301:23 318:6 327:24 329:11 392:3 394:7 395:5,10 connections 383:11	383:12 CONNOLLY 153:16 considerably 270:25 considered 161:11 consistent 171:9 258:23 constant 384:11 constantly 390:10 Constr 198:16 construction 163:8 198:17 225:2,22 318:17 342:23 392:17 consultant 175:8 176:23 177:8,19 177:20 178:12 179:14,19 consultants 159:5 178:6 179:2 consulting 242:8 288:24 contact 210:22 224:20 225:10,11 229:8 338:18 373:16,21 374:4 374:12 384:11 contacts 302:8 contained 174:8 185:23 186:24 187:23 191:6 200:9 201:12 211:22 214:5,18 215:2 397:2 context 252:7 301:13 continuation 155:9 155:20 continue 242:19 364:2 continued 150:20 151:6 227:17 287:13 336:22 397:22 continues 346:22 continuously 386:21 contract 159:25 210:23 342:20 368:23 contracted 217:19 contractor 159:25 309:13 386:16 contractors 159:4,6 338:6 contractor's 294:14 control 163:24 164:4,19 165:11 165:16,25 170:23 173:20 179:11 181:2,21 183:3 185:4,9 186:15 188:23 190:5,6,16 191:3 196:22 199:5 209:25	210:4,8,15 211:8 211:12,14 214:11 215:7,8,12,24 216:20 220:13,17 221:12 226:13 242:2 248:10,22 273:8,10,14,25 276:6,10 284:17 289:9 309:2,8 controlled 163:25 controls 247:18 249:5,16 Cont'd 153:2 154:6 286:6 conversation 300:19 315:23 conversations 301:4 302:10 303:9 conversely 313:22 cool 277:3,5 311:17 cooling 162:23 275:17 277:9 313:6 316:19 coordinate 240:8 392:2 coordinating 239:14 241:6,22 286:17 288:12,17 copied 246:7 copies 295:22 381:4 copy 173:24 198:4 212:22 243:22 244:7 259:18 294:3,5,15,23 copying 256:19 corner 192:12,25 203:17 213:10 214:6 234:15 359:12 379:7 corners 193:4 CORPORATION 150:11,12 correct 156:3,4,23 158:3,4,6,7 159:3 159:8,9 160:6 162:8 164:5,7,11 164:20,23 165:8 165:12,13 166:2 166:15,23 168:14 168:19,20,21,22 172:9 177:4 178:18 179:4,5 180:14 185:12 187:24 189:6,24 190:2 193:23 194:3 195:3 197:4 198:10,11,18,21 199:7,19 200:7,8 200:15,16 205:25 206:2,24 210:18 211:19 214:11,14 214:15,19 215:3 215:16 216:15 219:13,14 221:10 222:4 223:25 227:12,18,20	228:6 230:5 231:2 231:3 236:5 237:14 238:7 239:5 241:17 244:14,15 245:4,9 245:11,15,25 246:2 247:23,24 248:6,7 249:9,10 253:3 257:10,11 257:14,15,17,18 260:25 261:2 272:24,25 278:20 280:10 286:20 288:9,25 289:2,5 289:6,9,10 290:7 290:11,12,16,17 293:24 298:23 304:14,15,17,18 308:14 310:20,21 311:22 312:10 314:15 315:8 320:11,22 321:3,6 321:7 323:2 326:21,22 329:19 333:21,22 334:19 334:20,23,24 335:2,5,15 336:3 336:4 338:11,24 339:11,12 343:7 343:13,14,19,25 344:18 349:4,5 350:17,19 351:21 352:3 357:7,12 359:11 361:10,23 362:12 372:23,24 380:17,18 381:15 382:11 383:22,23 389:2 390:25 391:12 392:18,19 394:13 corrections 179:25 correctly 174:7 177:25 220:9 253:7 258:21 275:23 277:13 280:9 306:22 333:14 362:4 corridor 196:23 234:22,23 235:3 394:2 cost 280:3 282:19 300:18 costs 280:22 281:9 counsel 245:3 252:5 307:15 315:19 counselor 362:25 count 212:20 369:9 COUNTY 399:5 course 160:5 165:23 168:13 204:9 224:3 230:2 233:22 262:11 263:18 266:11 272:12 284:12 296:14,15 297:4 297:15 299:4
---	--	--	---	--

303:8 312:4 340:22 347:14 353:18 357:5 360:2 361:3 378:11 385:10 396:7 court 150:2 154:16 154:20,23 cove 370:17 cover 158:12,21 162:10 222:9 307:18 coverage 319:5 covered 340:3 370:11 376:3 385:10 covers 212:25 cracked 283:6 cranes 280:12,13 crater 284:12 crazy 356:17 create 174:2 175:22 187:8,19 191:12 198:8 293:21 393:14 created 161:25 162:12 168:5 173:2 179:19,21 180:10 181:23 182:7,11 183:5,12 183:14 184:10 185:14,16,20 186:16,25 188:2 192:17 193:7 194:2 195:3 200:11 271:17 293:15 315:6 creating 174:19 175:4 176:10 182:5,6 262:25 393:12 creation 181:5 crew 275:2 cross 234:22,23 crunching 329:24 current 155:25 188:19 customary 321:10 cut 387:15 CV 150:7	284:6,10,17 300:9 300:21 384:18 387:2,5,17 damaged 264:19 266:6 271:13 272:22 273:17,19 274:7,8 283:4,4 dark 299:8 darkness 299:9 372:19 dash 368:13 date 156:10 157:8 160:14 164:21,24 165:2 167:12 169:24 170:2 172:19 173:14 180:11,18 181:15 182:21 183:24 184:21 186:9 191:24 192:13 193:5,6 194:10,22 194:25 195:2 214:20 217:16 218:25 222:11 253:22 257:5 287:21,23 303:25 304:13 307:13 320:2 334:13 335:20 336:6 339:18 342:9,19 374:23 382:25 383:4 384:3 395:21 403:4 dated 162:9 168:21 336:3 dates 192:22,24 287:20 288:3 321:6 384:9 day 171:10 208:18 243:24 315:16 349:19,20 366:13 371:5,9 372:22 374:13 377:9,23 378:6,16 379:12 379:20,25 381:24 382:4,10,12,21 383:21 395:8 398:14 399:21 403:23 daylight 370:9 days 275:15,16 276:5 296:12,12 313:10 337:12 355:6 356:2 374:25 375:3 day-to-day 303:4 303:12 DDC 392:9,12,16 deal 187:13 376:25 debris 266:3,11 367:24 376:3,7 377:20 379:24 380:17 385:10 392:13,21 394:16 decided 223:18 224:6	deciding 279:20 decision 290:4 decisions 339:11 deck 372:7 deep 370:12 deeper 393:10,10 defend 319:5 Defendant 152:11 Defendants 150:18 defines 306:16 definitely 244:22 delay 365:7,16 deliveries 299:22 demand 275:17,17 277:7 279:9,10 Demark 317:22 DeMartini 188:8,9 Dennis 150:20 151:7 154:10 242:24 319:18 325:13 373:10 398:6,11 399:10 400:4 403:5,22 dents 266:9 DEP 331:5,8 department 158:21 159:2,8,10,11,18 160:18,25 161:22 168:8,11 172:2,4 172:7 217:10 236:4 239:14 240:5 241:7,22 286:18 288:12,17 288:25 293:18 304:9,11 305:15 330:12 331:9 352:2 353:7 354:10 355:7 369:11 373:16,21 374:4,13 389:10 392:17 department's 160:20 depend 360:23 depended 289:12 depending 206:14 225:8 360:8 depends 339:5 deposition 150:20 151:7 154:10 155:10,15,15,20 155:24 156:12 170:6 173:5 195:8 208:18 236:25 242:18,24 291:11 292:4 315:16 319:13,18 336:17 398:6 399:11,13 403:4 depth 301:2 derivative 254:13 259:5 describe 176:15 190:23 221:24 224:11 230:8,24 251:21 261:19	262:16 263:14 264:2,4 265:19 266:24 268:23 271:4 284:9 300:20,23 321:8 336:8 355:23 358:12 363:10 383:7 387:8 described 160:18 160:24 182:5 183:10 263:12 281:6 302:24 325:8 336:9 354:21 371:4 379:4 387:2 392:23 describing 358:11 description 310:10 310:22,24 311:24 343:12 354:8 descriptions 312:4 design 270:4 313:10 349:8 392:17 designated 277:20 designation 219:20 designed 279:13 316:14 329:6 designee 240:23 designing 159:19 desk 170:23,25 171:3 188:18 210:15 240:13 247:14,23 259:18 299:16 356:18,23 359:18 desks 221:16 282:9 desolate 370:11 destroyed 259:16 263:8 266:13 273:12,14 287:23 detail 166:12 213:17,20,21 214:5 255:5,7 262:20 265:9 305:22 395:25 detailed 395:23 details 213:17 detectors 247:11,12 247:21,22 248:2 determine 191:2 212:18 213:2 219:15 228:21 301:16 325:25 326:13 346:14,15 352:12,20 356:7 386:5,7,11 394:16 determining 165:4 detonated 262:21 developed 393:3 device 327:10 DEWEY 152:16 diameter 271:14 284:15 diary 156:9 died 302:16 diesel 250:12	252:25 253:10 254:7 328:2 difference 173:22 355:23 390:6 different 161:24,24 162:22 174:10 175:2 176:19 219:24 223:19 224:7,23,24 237:9 248:17,25 265:4 270:12 273:5 289:15 303:3 312:7 317:2,2,16 318:2 322:12,15 322:22 323:11 353:19 354:9,10 355:19 360:7,20 369:25 385:17 391:16,16,20 difficulties 259:11 365:3 difficulty 319:4 364:23 direct 196:8 198:13 199:11 238:11 245:2 264:24 296:4 325:2 363:14 379:2 directed 187:9 189:13,16 377:24 378:21 directing 378:3 direction 159:7 177:9 241:12 289:5 327:11 380:4,5,8 385:17 directions 369:25 directly 265:23 271:7 director 239:19 289:20 353:17 dirt 266:11 disaster 368:19 disc 245:5 disciplines 224:16 disclosed 236:8 344:24 discourse 296:22 337:17 discover 191:10 discovered 175:12 discuss 222:22 260:9 296:16 297:5,14 discussed 156:13 186:20 199:14 200:3 202:5 209:18 211:17 212:7 214:2 217:17 230:11 236:16 248:16 255:16 296:10 297:12,15,16,25 298:3 301:9,18 302:4 312:15,16 314:3,14 328:8
---	---	--	--	---

332:25 336:16 345:17,24 378:14 395:12 discussing 173:6 185:17 197:17 198:15 200:20 213:15 221:20 230:5 232:7 305:13 350:8 360:3 discussion 157:9 160:15 172:13 174:15 195:11 216:17 253:25 257:2 285:2 301:2 310:17 314:7 394:25 discussions 296:15 302:4 dispatched 356:10 356:11 display 322:2 disrespectful 365:22 distinct 279:25 312:18 distinctive 273:9 distributed 188:14 294:19 distribution 258:16 304:8 305:15 DISTRICT 150:2,3 disturbances 161:24 divided 205:9 235:3 269:10 division 153:5 163:8 217:8,12 218:19 219:12 225:20 226:15,20 226:24 228:17,24 231:16 318:17 342:24 353:4 divisions 256:12 350:22 dock 370:20 document 157:2,5 157:13,19 158:5 158:12 160:9,11 161:13,19,20,25 162:4,9,12,13,15 163:4,10 164:21 165:3 167:7,9,16 167:24 168:6,16 168:24 172:15,15 172:17,20 173:4 173:10,11,12,15 174:2 175:22 176:10 180:24 181:12,13,16,23 182:3,5,10,19,22 183:13,22,25 184:7,9,9,18,19 184:24 185:14,19 185:23 186:7,10 186:16,19,24	191:13,18,22,25 193:16,25 194:6,6 194:8,11,23 195:3 208:22 209:7 213:6 215:10,12 215:14 216:5 220:21 244:10 245:4 252:2 253:18,19,20 295:4 300:5 303:16,21,23 304:5 305:11,14 305:24 306:3 307:7,10,14 308:3 312:10 319:22,24 320:7 334:9,11,14 334:18,22 335:10 335:18,24 339:13 339:15,19,25 340:11 342:10 350:4,21,25 352:5 395:15,18,23 396:3,8 400:14,17 400:20,23 401:2,5 401:8,11,14,17,20 401:23 402:2,5,8 402:11,14,17,20 402:23 documentation 265:12 300:14,17 394:7 documents 155:19 159:22 166:13,15 166:20,25 170:11 170:13 174:9 175:6,7,15,16,18 175:21 176:9 182:8 183:12 187:8,14,18,20 188:2,10 189:3,5 202:4 245:19,21 260:4 292:7 295:25 298:17 335:17 dog 275:15 doing 178:3,7 205:19 210:10 313:2 321:13 329:23,25 337:10 394:22 dollar 343:5,7,18,24 domestic 311:20 389:9 Donald 373:9 door 393:20,22,24 393:25 doors 283:8 367:20 doubt 211:24 244:9 Doug 353:16 downstairs 372:4 dozen 370:3 drabs 368:24 draft 305:3 draw 203:16 213:9 213:24 255:14 257:12 267:22	304:23 381:17,18 396:9 drawing 173:6 177:16 178:23 179:3 185:11 189:4 190:12,15 191:7,9,11 192:17 193:6 194:16,17 196:9,24 197:25 198:3 211:18 212:19,21 220:10 220:12,16,16 221:5,5 244:16,18 252:12,15,16 253:6 254:3,16 255:15 256:9 267:2 268:3 314:23 315:6,6,10 325:5 326:2 379:5 381:13 drawings 156:13,17 156:17,22 159:24 175:7,10,11,17 177:5,6,6,7 178:2 178:2,7,10,13,14 178:16,18 179:16 179:19 187:6 192:9,11,21 196:5 198:2 208:16 209:12,13,16,21 209:23,24 213:17 216:14,22 221:13 221:15,17 230:10 231:2 244:21 252:6 255:13 257:21 258:5,12 258:18,22,23 291:11,14 302:4 380:11,12,13,25 drawn 214:14 drew 245:24 314:4 328:9 drihs 368:24 drill 234:9,11,13 239:5 drills 234:6 235:7 239:3,7 243:8 drive 278:23 driven 385:13,18 driver 299:23 drivers 299:24 driving 299:11 300:3 dual 278:12,23 duct 264:22 due 224:18 238:10 244:18 260:6 261:5 269:13 364:23 duly 399:12 dummy 306:9 dust 367:21 371:14 duties 163:9 171:24 duty 346:20 354:15 dynamic 180:8 D.C 153:19	E E 152:2,2 153:2,2 154:2 286:2,2,4 330:5 341:24,24 348:23 399:2,2 400:2 earlier 215:9 248:16 314:3,15 328:8 329:13 346:6 372:21 392:23 394:5 early 275:15 379:21 396:7 easement 303:17 305:3,9,19 306:2 307:16 308:4 315:25 easier 178:15 easily 317:7 east 235:4 393:21 easterly 380:4,8 economize 279:7 Ed 322:17 323:2,6 331:19 357:16 373:11 391:19 Edison 331:24 edition 158:13,16 effect 356:6,8 372:11 effectively 278:18 efficient 219:10 224:20 226:12 efficiently 285:7 effort 240:9 261:13 394:7 efforts 392:20 eight 205:9 253:5 361:18 either 155:14 171:5 205:13,24 208:17 253:5 279:22 292:3 296:6 302:23 313:17 320:19 321:5 356:11 378:15 elaborate 261:24 elastic 371:8 electric 321:12,23 322:13,15 327:25 337:7,10 372:18 electrical 225:3 266:7 273:8,11,24 274:2 295:17,19 313:2 347:22 348:5 358:13,15 electricity 321:17 322:11 323:9 elevator 171:12 281:23 282:2 367:15,16,19 368:5,6 elevators 361:2,5 367:5 368:3 email 304:7,13,16 304:20 308:8 315:16 329:20	331:2 332:22,24 333:5,12,21 335:2 336:2,5 396:6,10 396:19 emails 320:11,13,25 321:9 333:24 337:8 emergencies 161:24 163:25 emergency 161:16 165:21,23 171:20 172:7 214:16 217:2 218:16,20 219:11 226:12 233:24 234:4 235:13 241:3 249:23 250:5,12 251:11 252:10,16 252:20,23 253:13 253:14 255:15 299:6 314:8,10 328:3,9,11,24 329:5,7 367:19 368:17 382:5,8 387:18,19 388:9 388:10 emotional 364:19 employee 215:20,22 216:19 239:12,25 240:8 employees 158:25 159:4 165:24 166:19,22 168:10 216:13 228:4,22 228:25 229:4 232:2 238:16 340:3 345:5 390:19 391:24 enable 248:25 encapsulated 205:7 encyclopedia 166:10 endeavor 176:4 177:11,13 endwise 272:9 end-of-the-year 337:19,20 engineer 161:10 175:9,9 176:24,24 177:22,23 349:4,6 349:8 engineering 158:21 159:2,7,10,18 160:17,20,25 168:7,11 226:15 293:18 375:19 engulfed 367:21 enlarged 243:22 244:16 enlargement 203:2 213:13 Ensc 396:11,16,20 396:24,25 ensure 337:5 389:22 entered 326:19
---	--	--	---	---

entire 157:13 179:7 209:12 231:15 235:8,20 249:17 251:2 255:21 272:14,14 277:5,6 278:19,21 279:14 295:9 296:12 311:2,4 329:7 338:23 348:15,17 entirely 303:3 entities 290:5 303:11 318:7 336:22 386:6 entry 331:19 332:7 environmental 331:9 equipment 248:9,11 248:12,13,15,17 248:18,23,23 249:3,8 262:2 263:7,14,20 264:8 264:18 265:13,15 268:5 270:4,6,9 270:14,19 271:6 272:15 273:7 279:21,24 280:2,4 280:8,13,16 292:21 293:14 295:12 337:9 387:12 396:12,13 ernie 261:16 Ernie 341:22 ERRATA 403:2 escape 371:14 ESQ 152:8,14,20 153:8,14,20 ESTATE 150:11 estimate 217:23 225:12 226:5 232:11 238:22 263:3 287:17 355:2 370:22 371:2 382:18 384:3 estimating 277:14 et 208:14 257:22 364:17 evacuate 234:20 246:16 367:11 evacuated 235:9,21 367:2 369:5 evacuation 234:3 evaporator 271:25 272:7,11,18 278:12,15,16 evaporators 279:3 event 161:23 235:24 246:14 368:18 eventually 195:20 everybody 234:20 356:3 367:11 369:9 exact 173:24 exactly 174:9 206:3 297:14 330:22 371:15	EXAMINATION 154:6 286:6 400:3 examined 154:4 example 188:16 234:3 352:24 excerpt 307:16 excess 272:13 exchange 311:11 396:6 exchanged 311:15 321:2 excuse 164:18 255:6 268:6 361:24 exert 270:2 exerts 269:16,24 exhibit 157:2,5,11 160:9,11 161:12 164:18,25 165:4,6 165:7 167:9 169:10,19 172:17 173:10,12 174:22 175:4 179:8,20,21 181:13 182:6,18 182:19 183:20,22 184:12,15,15,19 186:7 187:7,7 189:3,4 190:3,6 191:18,22 193:18 193:18,22,25 194:8 195:6,7,13 195:14,22,25 196:7 197:7,16,17 197:18,18 198:8 198:12 199:10,14 200:3,6,10,12,18 201:3,4,5,9,13,14 201:19 202:11,16 202:18,21,24 203:4,6,13,17 211:16,22 212:5,6 212:7,8,14 213:10 214:10,13,14,19 215:2,7 220:9 243:13,14,16,18 243:25 244:3,7,7 244:13,17 245:12 245:13,14,16,17 246:4 251:25 253:20 257:7 267:10 303:21,23 307:7,10 308:8,10 314:2,3,11 315:17 315:20,21,25 316:5,7,8,9,10,12 317:21 319:22,24 323:3 329:20 334:9,11,25 335:16,18 339:15 379:3 395:18 400:14,17,20,23 401:2,5,8,11,14 401:17,20,23 402:2,5,8,11,14 402:17,20,23 exhibits 171:14 175:2 184:4	186:21 258:19 400:12,13 exist 258:12 294:2 295:5,23 existed 198:9 251:16,18 294:24 existing 175:6,11 177:6,7 178:2 exists 294:25 EXP 160:10,12 400:18 expanded 217:19 263:6 expect 198:6 200:13 215:14 expenditures 306:18 experience 192:10 192:22 258:20 260:9 364:16 experiences 397:18 expertise 216:9,14 275:4 303:6 explore 222:10 explosive 262:10 explosives 262:22 Exponent 153:24 extend 364:8 365:7 extended 389:12 extension 365:12 extensive 247:2 274:12 310:25 312:5 extent 166:19,21 223:17 268:18 273:18,19 295:4 360:16 363:11 364:18 374:19 extraction 316:10 extremely 393:7 F F 286:2 399:2 FACCHIN 153:23 face 268:25 299:24 facility 259:17 303:5 306:16 307:3 fact 158:16 176:7 244:8,19 245:20 252:9 257:25 258:5,17,25 260:6 299:13,13,21 306:3 308:18 385:13 fade 389:23 failure 162:24 fair 233:6 316:4 320:10 326:9 fairly 336:15 fall 287:14 falling 271:16 367:24 368:11 false 355:6,8 356:2 356:4 familiar 160:4	161:19 167:24 170:19 204:7 216:10 222:25 223:5 230:3,23 231:5,13,13,17 233:24 241:16,23 242:7 246:9 249:22 250:5 262:12 263:19 264:9,10 303:16 327:6 345:16,23 346:24 348:11 350:24 familiarity 168:12 346:8 350:12,14 fanned 380:3 fans 264:16 265:7 fantastic 275:5 fan-fold 294:6 fan-folded 294:10 far 180:4 265:2 290:25 300:16 312:17 335:15 336:12 379:22 380:6 393:2 FARGO 150:15 fashion 292:19 293:5 fault 365:11 FDNY 236:3 feat 249:6 February 160:25 164:22,24 165:2 274:16 fed 324:19 327:5,19 feed 324:15,19 feeder 323:2 feeders 322:18,19 feeds 318:2 322:13 322:15 372:18 feel 367:22 368:6 395:24 feet 263:2 269:16 272:13,15 393:21 394:2 fell 266:4 293:19 372:4,17 388:6 FEMA 378:9 392:7 fence 370:14 field 175:7 176:12 176:15 177:3,16 178:3,7 179:6 183:12 186:19 figuratively 267:7 figure 195:13,21 243:16 257:14,16 257:22,24 258:15 306:11 314:25 325:20 343:5,7,18 343:24 figures 257:9 258:2 258:14 259:21 file 175:20 files 209:22 filling 375:13 final 158:13,16	165:5 168:23 finalized 222:11 finally 370:8 find 197:22,23 210:9 216:6,12 219:10 368:25 369:3 finding 210:17 319:5 fine 203:15 288:6 finish 349:24 350:2 364:6 finished 156:12 179:23 180:2 287:6 328:19,22 Finnegan 375:24 391:18 fire 158:2 159:12,19 160:4 164:14 167:21 168:12,18 169:13,18 170:19 170:25 171:3,3,7 171:14,18,19 172:2,4,6,7,8 181:21 183:3 185:4 188:17 189:4,21 190:4,6 190:11,14,20 196:21 204:3,3 210:4,8,15 211:8 215:8,24 221:12 221:15 234:6,9,10 234:13,17 235:24 236:2,3,10,11,21 237:2,3 238:5,6 238:17,18 239:3,5 239:10,14,19,24 240:5,7,13 241:6 241:22,23 242:2 243:6,7,8 246:14 247:14,23 248:22 251:9 258:15 263:8 273:21 283:16,23 286:17 288:12,13,17,25 289:9,9,20,23 351:7,8,12,20,21 352:7,16,16 353:23,24 354:21 355:7,13,14,18,18 356:3,5,8,12,19 356:21,22,25 357:10,20 358:16 358:17,24 359:4 359:10,17 360:4 360:13,14,25 361:9,21,23 362:7 362:8,17 369:10 373:16,21 374:4 374:13 389:9,10 389:11 390:15 firemen 359:17 fires 281:25 283:19 354:22,24 355:3,5 355:10 360:3 361:3,5 389:15,16
---	---	--	---	--

first 162:3 164:7 172:10 247:12,20 254:24 297:17 299:15 308:2,8 317:21 322:23 331:4 343:5,18 365:4 366:16,24 367:2,5 374:21 375:4 383:24,25 384:6 396:10 five 224:24 322:7 323:20 360:11 flash 234:18 flashlight 367:9 flashlights 178:15 178:24 flexibility 279:20 flight 372:5 Flom 151:9 153:10 flooding 375:8 floor 153:6 234:9 234:11,14,18,24 239:5 248:24 249:2 270:21 272:8 278:3,4 367:10 floors 248:20 263:5 282:4 284:11 flow 327:11 390:9 flowing 370:6 372:14 fluid 327:11 focus 261:7,11 focusing 261:25 folded 244:21 follow 159:25 178:21 195:17 394:2 followed 161:23 274:25 following 163:19 167:4 282:8 297:16 307:8 follows 154:5 286:5 331:3 follow-up 286:11 foot 269:17,18 313:4,4,11 forgive 284:4 form 161:2 166:7 166:16 171:16 180:16 190:8,17 190:18 193:21 195:4 198:24 199:8 200:23 201:16 203:7 208:25 209:10 210:21 211:25 214:22 215:4,18 216:3,23 219:3 223:14 224:14 227:14 228:8 229:5,14 231:8 233:9 238:20 242:12 244:13 245:8 246:24	250:10 255:17 262:18 263:17 276:3 277:17 279:16 284:20 288:22 289:3 294:3 297:8,23,24 301:12,25 302:6 303:13 305:20,21 307:4 308:16,23 308:24 309:11 310:4,13 312:2 316:6 322:10 323:13 324:2 326:16 329:3 331:17 332:5,17 338:10,15,25 340:18 345:9,19 346:11 347:24 348:13 350:18 352:8 353:12 354:4,5 360:6,16 366:9 386:10 389:24 format 174:10 294:5 forth 399:11 forward 363:5 found 259:17 260:5 288:5 369:4 385:12,18 foundation 261:23 284:2 340:18 350:24 389:25 390:23 four 153:12 178:21 193:4 267:20 274:12 289:15 324:9 325:7 327:16,17 341:20 364:11 fourth 396:10 frame 160:19 338:3 frames 384:9 Frank 188:8 frankly 348:18 fraught 365:2 free 395:24 French 359:13 freon 383:17 385:15 386:8,22 frequency 292:21 frequently 296:11 Friday 150:21 friendly 296:22 front 162:10 168:9 193:19 315:20 379:8 FSP 193:10 194:21 197:9 199:22 203:22,23,25,25 204:22,22 205:18 205:18 FSP-10 212:10 FSP-9 212:10 fuel 262:9 321:11 fulfill 241:4	fully 367:21 full-sized 191:11 198:2 function 197:6 312:20 328:25 395:5,8 functioned 251:22 functioning 382:10 382:12 387:25 395:2 furniture 282:9 further 154:5 203:22 213:8 234:22 254:10 274:6 309:17 399:15 future 283:6 297:21 333:9 G G 150:24 151:10 153:14 330:5 399:7,25 gain 381:24 390:15 gained 384:6,20 Gallery 254:11 gallons 389:11 gates 370:6 372:15 gather 170:8 189:20 219:17 222:2 236:3,20 242:3,9 gathered 198:7 335:11 373:25 gathering 186:20 259:12 296:24 309:21 371:3 393:13 gauged 328:2 gauges 328:5 gear 266:7 273:9,11 273:25 274:2 gee 298:18 general 219:20 237:24 260:21 330:6 346:21 generate 292:23 313:7 generator 252:10 252:17,20 253:15 255:19 314:9,10 328:10,11,25 329:5 387:19 generators 250:12 252:24,25 253:10 253:13 255:15,22 328:3 382:5,9 387:18 388:9,10 gentleman 375:22 gentleman's 180:20 gentlemen 231:11 353:20,22 George 166:11 gesturing 359:22 getting 275:10 325:22 giant 385:13	GIFFIN 153:20 154:7 156:25 157:14 159:15 160:8 166:6 167:6 172:12,14 173:9 181:11 182:17 183:20 184:17 186:5 191:17 194:5 195:9,15,19 195:25 196:4 199:19 201:2,7 202:16 203:12 210:13 212:4,11 214:21 217:15 218:24 219:4,23 220:7 230:15 242:13,15 243:3 245:2,7 246:8 253:17 256:24 257:5 259:9,20 260:8 262:19 285:3 286:7 295:3 295:22 303:20 307:6,22 318:24 319:3,21 320:3,19 325:18,22 326:10 334:8 335:16 339:13 341:13 348:17 352:20 354:3 355:16 362:2,11 363:2,16 363:23 364:22 365:19 395:15 397:15 400:4 Gifford 329:21,23 Gillespie 397:5 give 158:10 170:14 170:16 171:25 188:3,5 201:2 202:9 215:14 217:23 233:6 238:22 241:12 244:8 262:19 272:5 287:16 300:16 309:18 360:10,21 385:4 given 187:17 188:18 188:20 195:10 235:19 244:12 293:22 399:14 gives 267:13 275:19 giving 290:22 glass 174:13 196:6 glow 299:8 GMAC 150:10,16 339:14,16 402:21 go 157:15 160:16 172:7,10 174:19 175:4,11,13 177:15 178:20,24 190:24 196:19,21 205:19 209:20 210:10,17 219:25 242:13 244:5 247:5,11 248:25 264:13 268:17,22	273:16 276:18 282:2 286:24 289:9,23 307:25 321:24 323:10 324:5 349:22 362:22 363:17 365:18 366:23 369:3,13 375:4 378:5,8 380:2 383:5,9,25 393:23 going 154:11 195:7 195:16 199:16 200:23 205:20 207:19 208:8 212:2 220:2,5 242:15,25 252:11 255:18 256:6 268:22 271:4 276:18 285:10 286:8 307:17 316:22 318:22,25 319:7,10,13,19 337:21 338:8 360:15,25 363:18 363:21 364:14 367:14 377:25 379:16,17 398:2 good 154:13,14 203:10 224:15 254:8,22 255:4 285:3 368:12 387:10 gotten 202:10 203:5 244:2,16 260:2 369:2,7 govern 306:14 governors 318:9 great 383:16 greater 270:3 green 294:9 grew 393:9 gross 327:4 ground 375:11,12 390:15 group 189:3 225:8 226:2,6 232:12 235:25 236:20 237:2 276:19 292:11 318:16 322:19 330:23 342:4,7 347:15,18 348:16 351:12,14 351:15 353:4,6,11 354:9 373:19,25 374:3 groups 290:24 350:22 352:4,6,14 355:4 group's 236:7 237:6 237:7 guess 161:20 171:5 182:8 201:25 217:24 226:7,8 231:22,25 232:4,5 232:17,20,21 238:24 259:4
---	---	---	---	---

272:13 312:5 364:5 367:18 370:3 guessing 276:23 Guido 369:8 guy 178:22 240:24 318:10 guys 178:23 369:5 H H 348:23 half 269:17,20 285:6 Hallmark 196:11 Hamann 347:5 349:17 372:22 hand 175:10 177:5 177:6 206:6,8,12 267:4 399:21 handed 318:11 handle 278:21 hands 180:6 handsets 224:17 225:7 handwriting 169:7 326:8 Hanna 373:9 happen 174:13 207:3 298:19 306:19 happened 298:18 298:19 357:4,8 364:13 380:25 hard 294:3,5 head 154:20 369:9 headed 394:3 heading 393:25 hear 264:7 heard 281:11,12 384:24 396:18 397:4 hearsay 384:23 heat 311:11 313:7,9 heating 316:18 heavily 271:13 height 269:13,17 270:2 held 151:7 237:11 237:24 238:3,12 238:13 help 174:14 346:16 359:4,8 375:24 383:10,15 393:16 helped 370:17 393:15 helpful 267:3,12 hereinbefore 399:11 hereunto 399:20 Herman 341:22 358:9 Hickey 156:18 158:10 170:5 201:14,19 202:7 202:10 203:5 243:25 244:8,13	245:12,23 290:23 291:3,6,12,16 292:2,14 296:2,5 296:16,23 297:6 297:20 298:6 300:8,13 301:5,9 301:23 302:25 hierarchy 169:4 high 269:11,12,16 270:16,17,22 271:6 272:15 275:16,16 278:13 279:18,22,24 300:4 378:19 380:3 382:8 higher 381:13 hit 294:7 322:23 356:15 366:16 367:16 HOLDERS 150:16 hole 262:25 holes 244:20 246:7 home 250:16 hoped 365:10 horrible 367:14 horsepower 268:13 hotel 324:22 hour 285:6 hours 171:10 HSQ 308:25 309:8 309:13 Hudson 311:13 370:13 375:13 376:15 huge 170:13 221:18 272:12 Hughes 373:11 humidity 275:16 Hurley 353:17 357:12 HVAC 246:16 247:13,22 248:18 264:18 265:8 268:15 hypothetical 360:17 360:19 I ID 400:13 idea 262:20 identical 174:16 184:5,13 201:9 202:25 243:19 245:19 268:12 identification 157:7 160:13 167:11 172:19 173:14 181:15 182:21 183:24 184:21 186:9 191:24 194:10 253:22 299:20 303:25 307:12 320:2 334:13 335:20 339:17 395:20 400:16,19,22,24	401:3,6,9,12,15 401:18,21,24 402:3,6,10,12,15 402:18,22,25 identifies 196:25 identify 185:8 197:20 383:10 II 154:9 242:18,20 242:23 319:17 398:5 imagine 180:17 298:9 immediate 263:4 immediately 227:3 284:17 333:13 372:6 impact 337:14 338:14,18,20 impacted 337:16 338:19 impacting 318:4 imparting 296:9 important 166:18 338:22 improve 297:17 298:22 incapacitated 273:6 inch 271:15 327:21 incident 289:12,16 356:14 367:4 374:24 include 156:2,6 236:21 280:15,21 350:7 included 170:12 193:18 208:19 209:17 215:23 228:5 232:12 245:18 255:21 257:10 258:6,9 316:8,9 340:19 351:20 includes 257:22 including 350:10 incomplete 260:6 increase 313:5,6 344:16 increased 312:25 independent 276:9 396:23 indicate 158:24 164:17 192:16 193:6 195:2 198:17 199:3 214:4 224:5 268:19 298:6 315:9 325:4 343:16 380:15 381:6,7,17,18 indicated 185:11 187:15 202:6 208:23 209:7 221:22 226:11 247:21 276:16 indicates 169:13 Indicating 246:4	indication 213:25 347:20 individual 218:18 219:16 237:10 241:21 242:7 273:13 311:17 348:24 375:20 397:4 individualization 317:7 individually 320:17 individuals 160:3 231:19,20 332:21 345:16 351:7 352:5 374:3 378:13 384:20 Industrial 290:14 infer 397:2 inference 334:4 inferences 305:10 334:6 information 158:10 166:2,14,20,23 170:4,9 172:2 174:8,23 175:14 181:8 182:9,12,15 183:15,18 185:23 186:2,20,24 187:3 187:15,18,23,24 189:21 191:6 193:17 194:3 198:7 200:9,12 201:12,13 202:9 202:14 203:6 208:19 211:21 214:5,14,18 215:2 215:15 218:21 219:17 223:22 224:4 230:12 242:3,10 243:18 243:19 244:2 245:11,13,18,23 245:24 247:3 258:24 281:8,16 290:22 291:4,15 292:7 296:8,10,24 298:11 300:8 301:22 302:2,22 309:18,22 332:20 332:23,24 335:10 339:10 362:5,13 362:16 384:19 387:16 393:12,13 394:10,11,19 400:7 informed 191:20 initial 257:4 381:21 initials 325:14,15 Innovation 196:11 196:14 inside 176:18 246:15 installation 213:20 installed 206:21 309:4 311:18 312:23	instance 251:7 instructed 170:14 instruction 158:6 165:5 168:17 169:13,18 170:9 235:19 245:25 instructions 157:24 234:22 236:2 insurance 150:5 152:17 290:8,19 290:25 291:4 296:17,25 298:7 insurers 290:14,24 intact 378:2,20 379:12,15 385:11 385:16 387:20 388:17 integrated 306:16 307:3 intend 395:22 intended 303:11 interchangeable 171:6 174:24 278:7 interconnected 315:18 316:3 interconnecting 271:23 272:19 interested 399:18 interim 180:6 interject 286:24 intermittently 382:16 internal 270:11 International 150:4 275:3 386:15 interpose 200:23 210:20 interrupted 342:21 interruption 271:10 interruptions 337:5 introduce 156:25 160:8 167:6 173:9 191:17 194:5 253:17 303:20 307:6 319:21 334:8 INVESTMENTS 150:11 involve 280:10 involved 159:19 162:14 163:3 223:16 234:6 264:6,15 288:21 290:4 340:13 363:6 374:18 390:17 392:20 393:12 involvement 290:8 290:25 363:11 391:11 IRI 153:17 issued 161:20 item 312:13 items 312:9 316:7,8 316:11 328:19,21
---	--	---	---	--

<p>J J 152:14 249:14 jackets 370:18 January 337:22 Jersey 150:10 153:5 250:14 369:15 375:8 390:8,9,11 job 150:25 155:25 168:13 215:22 223:3 230:2 237:20 275:6 278:8,9 318:14 330:18 351:19 354:8 355:12 357:20 358:6,14 358:24 jobs 369:6 Joe 357:24 373:10 John 153:25 156:18 158:10 170:10 201:13,19 202:7 202:10 203:5 243:25 295:25 358:9 Jones 177:21 180:18 185:15 Joyce 150:24 151:10 399:7,25 JSM 150:7 Judging 252:9 JULIE 152:20 July 156:8 222:13 222:16 223:4 224:11 227:10 228:15 294:24 304:11,20 318:6 321:2 336:3 340:16 342:25 347:11 349:9 362:18 382:25 June 168:21 396:7 juxtaposed 173:25 Jl 378:22 379:22</p>	<p>318:11 367:9 kick 250:18 kids 296:20 kind 159:21 187:15 187:18 193:17 194:3 216:10 218:20 224:3 233:16 262:13 263:2 273:4 281:17,21 300:21 301:22 302:2 304:9 306:9,11 313:7,8 kinds 191:14 192:21 207:4 250:22 272:19 291:15 297:5 336:23 339:11 365:2 knew 217:4 232:3 367:4,7 393:19 knocked 263:7 know 157:10,17 158:18,19 159:21 161:3,4 162:2 165:17 166:9,11 166:25 168:5,23 169:5,7 171:4,13 171:17,23,25,25 174:5 175:3 177:16 180:4,19 188:9,11,17,18,24 189:16 190:4,10 190:11,20 191:5,8 192:6,19,20 195:12 196:20 201:17 204:11,13 206:17 207:3,7,8 207:12 208:3,10 208:22 209:3,11 210:2,3,9,16 211:9,11 212:15 213:16 214:9,23 215:5,6 217:22,25 217:25 218:2,10 218:15,17 220:20 222:11 226:9,19 226:23 227:4,5 228:16 229:7,15 229:20,23 231:23 232:7,14,22,22,23 233:14,15,19,20 234:5 235:10 236:6 238:16,21 239:7,24 241:20 242:5 244:23 248:3 250:9,16,24 251:3,5,5,6,7,15 251:16 254:15 258:5,8,13 259:3 259:6,7,8,16 263:2 264:12,14 264:16 275:10 276:4 280:3,5,24 281:5,21 282:7,11 282:13,19,21</p>	<p>283:8,9,11,16,20 283:22 284:4,5,9 284:16,22,25 287:4,21,22 289:25 291:23 292:8,12 293:2,6 294:7,9,17,20,22 294:23 295:2,7,21 296:13,20,22 297:13,18,25 298:2,18,18 299:3 299:10,13,21,22 299:25 300:14,15 300:16,17 301:13 304:2 305:11,23 305:25 306:4,6,8 306:9,12 307:21 311:6 313:11 316:23 317:8 320:4 321:11,19 322:7 328:23 329:4,9,15,17 330:2,14,18,19,22 331:8,11,18,22,25 332:6,10,14,18 335:21 336:11,21 337:8,18,21 340:21,23 341:7 341:14,15,16,16 342:19 343:17 344:8 345:4 346:4 347:7,10,15 348:4 349:11,13,14,16 349:17 350:21 351:3,11 352:4 353:8,10,21 354:7 356:5 357:22 358:7,18,23,25 365:24 369:8,16 369:17 372:19,20 373:24 374:14,23 378:12 379:11,13 379:14,15,17,22 380:6,10 381:2,8 381:23 382:7,15 383:10 384:5,7,8 384:12 385:2,5,14 385:21 386:15 387:12 388:4,5,7 388:16,23,24,25 389:6,19,20,21 390:2,2,4,5,6 391:9,10 393:4,19 393:25 394:14 396:16,22 knowledge 181:7 207:22 232:9 233:21 235:6 251:4 255:11,12 258:3 308:7 327:3 374:11 375:6 393:9 396:23,25 known 164:5,6 249:11 266:18 320:23 323:23 Kress 397:5</p>	<p>L L 154:2,2 286:4,4 330:5 labeled 154:9 192:9 195:21 199:4 213:16 242:17,19 242:23 253:19,21 254:18 257:14,16 258:19 319:12,17 398:4 402:2 labor 280:21,23 Labriola 373:10 lack 255:5 261:22 283:25 350:23 389:25 390:22 lacks 255:6 340:17 ladder 206:21,22,23 207:16,20,23 208:6,9 210:9,16 210:24,24,25 ladders 176:18 207:4,14 208:12 208:14 lading 299:24 landed 266:5,15 273:21 landmarks 380:10 large 162:25 224:18 271:13 272:16 275:2 280:13 313:19 322:18 339:7 376:9,18 390:5 larger 246:6 266:8 Larry 318:9,11 lasted 283:20 late 156:8 277:15 382:25 latest 305:3 lawyers 155:16 Layout 254:19 lead 192:10 216:11 learned 396:19 lease 156:19 159:15 160:21 166:6 167:2,4 180:12 187:12,13 214:24 216:20 217:15,16 217:17 218:24 219:2 222:7,11 225:14,19 226:25 227:2,6 228:19 229:12,18 233:13 235:18 236:14,15 236:18 237:18,23 238:15 239:11,17 239:20 240:14 241:2 243:5 286:15 288:11 290:4,10 294:21 301:23 336:12,22 343:22 351:5,9,19 352:10 353:10 354:2 362:14 leased 306:25 leave 366:18</p>	<p>left 228:2 326:18 343:10 347:19 349:4 363:4 366:24 369:13,18 394:2 left-hand 213:10 214:6 252:14 379:6 legal 305:24 legend 173:22,23 174:11 196:24 197:5 199:4 Lennie 358:20 lesser 273:18,19 letters 164:8 331:5 letting 336:10 let's 154:22 172:14 174:21 177:12 181:11 182:17 184:17 195:22 205:8 210:13 219:25 224:10 242:13 249:7 262:4,16,25 264:21 265:16 267:6,9 269:8 272:6 274:24 279:9 285:6 316:7 328:18 330:25 337:6,18 349:22 363:16 365:18 level 163:24 172:25 172:25 173:20 179:8,12 181:3,21 183:3 185:4 186:15 189:9,14 189:18,22 191:16 193:15 194:20 204:19 207:9,13 208:4 249:13 252:4,21 254:3,12 254:19 258:17 262:6 267:8 311:8 311:12 315:3 323:16,21 324:14 324:21,24 325:21 326:3 328:12 350:12 369:22 371:11,17,21,22 371:25 373:2,20 380:2 381:13 385:5 389:6,19 390:12 levels 262:23,24 281:23 311:3 312:25 Lexington 152:6 Liberty 324:19 368:3,4,9 370:21 371:20 373:25 374:2 license 299:24 life 345:11 353:2,17 370:18 light 234:16,18 lighting 280:12</p>
--	--	--	--	---

299:6 Likewise 274:18 limit 364:15 limited 241:15 359:10,18,19 385:20 line 198:20,22 199:7,12,23,24 200:6 203:18,19 203:23 211:17,19 212:11 213:7,14 238:11 240:24 253:14 264:25 269:2 327:21 334:1 364:24 381:18 400:8,9 403:7 lines 178:22 190:24 203:20 250:13 251:20 278:23 284:15 375:16 376:18 Lipton 152:10 155:16 list 164:10 231:25 257:9,22 291:21 293:9 295:8,11,13 304:8 305:15 308:13,17,25 316:3 337:9 338:7 340:10,20,20 341:5 345:14,22 346:14,16 349:24 350:2,7,11,14,16 351:7 listed 254:7 293:5 310:19 315:17 340:22 352:4 listing 352:25 lists 292:20 LITIGATION 153:5 little 184:23 196:24 198:13 221:24 222:9 292:16 367:17 385:4 LLC 150:8,9,12,13 150:14,14,14 LLP 152:16 153:10 153:16 load 275:21,22 278:21 279:6,13 313:9 370:17 loaders 376:6 377:19 loads 275:13 lobby 170:23 359:12 367:20,20 locate 197:16 200:19 212:6 214:17,25 215:13 215:15 216:20,25 218:20 221:21 226:13 230:7 247:5 259:14 267:5 363:13	375:15,24 379:3 383:14 located 192:24 193:2 196:22 206:8 249:12,13 250:9 259:21 310:23 311:3,7,12 314:23 371:16 376:7 377:2 378:23 location 176:20 185:8 197:4,17,21 197:23 198:9 199:14 200:2,14 200:19 206:23 208:19 212:7 230:4,8,9 231:5 235:12 247:4 252:20 253:9,12 255:15 262:2,4 311:14 323:22 324:18 328:7 360:9 368:21 369:11,14,17 locations 185:11 231:14 324:7,9 326:13 327:14,16 380:16 381:8 locked 211:2 logically 259:7 long 272:14 282:21 283:20 287:2 294:9 344:20 360:12 371:2 386:24 longer 287:7 347:14 361:9,22 look 166:12 167:13 189:5 191:9 195:7 197:7 200:17 201:3 202:18 205:9 209:21 212:5 254:10 255:8 258:13 304:3 314:11,22 367:12 370:10 393:11 looked 164:25 173:25 175:21,23 176:2,10 179:10 184:2 208:16,17 216:5 254:14 255:6,7,9 350:16 368:12 370:8 371:7 385:7,9,10 387:24 388:16,17 389:3 looking 165:3 169:11 191:13 192:11 198:2 199:17 211:17 219:5 244:11 247:4 252:6 272:8 274:4 308:2 325:25 333:17 342:8,11 346:19	383:11 looks 173:21 174:3 174:16 184:2 192:5,8 194:15 203:2 243:21 252:11 254:13 loop 179:7 190:25 193:11 194:21 205:10,15 258:16 309:20 loose-leaf 244:19,20 246:7 259:25 260:7 lose 367:4 375:11 375:12 loss 397:18 lost 250:4,19 251:11 251:11,12 262:3 367:16 lot 170:10,15 173:21 178:15 180:8,9 202:4 203:20,20 208:13 208:13 239:20 256:12 263:8 264:18 266:7 275:4,4 279:20 280:18 281:23 282:3 283:19 287:7 292:6,7,7 294:13 356:13 359:3 low 269:11 270:14 270:15,19 278:13 278:17,20 279:6 279:13,18,22,23 lower 192:12,25 198:14 203:17 213:10 214:6 270:20 281:23 lowest 390:12 lubrication 272:20 lunch 285:4,5 LZA 253:19,21 254:14 255:14 402:2 M M 154:2 286:4 341:24 machine 266:10,17 268:6,6,7,11 273:4,5,9,10,10 273:13,18,18,19 273:24,25 274:10 274:11 276:19,19 278:11,12 385:6 385:15 machinery 266:6 270:12 386:18 387:23 machines 266:14 267:20 271:7,12 272:9,12,21 273:8 274:7,9 275:7,19 276:15,20 277:11	277:13 376:17 machine's 275:3 Madison 153:6 Magee 229:9,10 302:7,14,23 303:3 334:22 335:3,7,11 magnifying 174:13 196:6 main 248:10 254:10 261:15 266:10,13 266:17 267:8 276:6 277:4 311:11 314:20 324:13 maintained 294:21 maintaining 396:13 maintenance 157:25 167:20 168:18 237:25 238:2 240:16 260:21 292:9,18 292:25 293:14,24 295:8 313:18,23 342:5,12 346:20 346:21 347:18,22 348:5 major 266:9 271:21 274:8 majority 161:21 227:23 making 179:2,16 mall 172:25 173:19 179:11 180:9 181:3,20 183:2 185:3 186:14 189:11 191:16 Malopolski 150:20 151:7 154:10,13 155:1 156:1,11 157:1,5 158:1 159:1 160:1,11 161:1 162:1 163:1 164:1 165:1 166:1 167:1,9 168:1 169:1 170:1 171:1 172:1,17 173:1,12 174:1 175:1 176:1 177:1 178:1 179:1 180:1 181:1,13,17 182:1,19 183:1,22 184:1,19 185:1 186:1,7 187:1 188:1 189:1 190:1 191:1,22 192:1 193:1 194:1,8 195:1,14 196:1 197:1 198:1 199:1 200:1 201:1 202:1 203:1 204:1 205:1 206:1 207:1 208:1 209:1 210:1 211:1 212:1 213:1 214:1 215:1 216:1 217:1 218:1 219:1 220:1 221:1 222:1 223:1 224:1 225:1 226:1	227:1 228:1 229:1 230:1 231:1 232:1 233:1 234:1 235:1 236:1 237:1 238:1 239:1 240:1 241:1 242:1,24 243:1 244:1 245:1 246:1 246:9 247:1 248:1 249:1 250:1 251:1 252:1 253:1,20 254:1,2 255:1 256:1 257:1 258:1 259:1 260:1 261:1 262:1 263:1 264:1 265:1 266:1 267:1 268:1 269:1 270:1 271:1 272:1 273:1 274:1 275:1 276:1 277:1 278:1 279:1 280:1 281:1 282:1 283:1 284:1 285:1 286:1,10 287:1 288:1 289:1 290:1 290:3 291:1 292:1 293:1 294:1 295:1 296:1 297:1 298:1 299:1 300:1 301:1 302:1 303:1,23 304:1 305:1 306:1 307:1,10 308:1 309:1 310:1 311:1 312:1 313:1 314:1 315:1 316:1 317:1 318:1 319:1,6,18 319:24 320:1 321:1 322:1 323:1 324:1 325:1,19 326:1 327:1 328:1 329:1 330:1 331:1 332:1 333:1 334:1 334:11 335:1,18 336:1 337:1 338:1 339:1,15 340:1 341:1 342:1 343:1 344:1 345:1 346:1 347:1 348:1 349:1 350:1 351:1 352:1 353:1 354:1 355:1 356:1 357:1 358:1 359:1 360:1 361:1 362:1 363:1 364:1 364:5,7,13,20 365:1,20 366:1 367:1 368:1 369:1 370:1 371:1 372:1 373:1 374:1 375:1 376:1 377:1 378:1 379:1 380:1 381:1 382:1 383:1 384:1 385:1 386:1 387:1 388:1 389:1 390:1 391:1 392:1 393:1 394:1 395:1,18 396:1 397:1,15 398:1,6,11 399:10 400:4,13,14,17,20
---	--	---	---	--

400:23 401:2,5,8 401:11,14,17,20 401:23 402:2,5,8 402:11,14,17,20 402:23 403:5,22 Malopolski's 341:11 man 368:12 manage 317:17 management 150:9 163:8 177:14 187:9 188:19 225:23 236:9 318:16,17 336:11 337:13 342:5,13 342:23,24 346:20 346:22 347:18 351:14 manager 162:21 188:6 330:24 managers 330:7 manholes 375:25 376:8 377:5 manner 192:9 222:25 223:5,12 223:19,20,23 250:8 259:13 293:24,25 391:4 manual 156:22 158:6,17,25 161:16 164:14,18 165:5,11 166:10 167:21 168:17 169:13,18 170:9 242:2 245:25 249:20 257:10 258:4,6,22,23,25 259:2,3 manually 249:9,19 manuals 156:24 157:23 158:8,9 163:19 164:10 165:15,20 166:2 169:4 171:13 175:24 176:2,6 209:17 242:9 258:4,21 259:25 manufacturers 293:4 map 172:24 173:20 230:25 392:13,21 393:2 maps 393:13,14 marching 354:11 359:5 mark 364:10 380:12 marked 157:7 160:13 167:11 172:18 173:13 181:14 182:20 183:23 184:20,22 186:8 191:23 194:9 212:10 253:21 303:24 307:12 319:25	334:12 335:19 339:17 380:11 395:20 400:15,18 400:21,24 401:3,6 401:9,12,15,18,21 401:24 402:3,6,9 402:12,15,18,21 402:24 marks 179:2,18 marriage 399:17 masonry 281:24 material 216:11 matter 257:25 321:9 336:8 374:25,25 375:3 384:14,14,16 399:19 matters 222:22 290:25 364:19 maximum 275:22 McCabe 373:11 McGinley 391:19 Meagher 151:8 153:10 mean 177:10 185:6 206:23 221:25 231:15 249:25 250:2 271:2,18 275:9 283:4 301:15 316:15 322:15 345:2 347:21 365:22 371:6 388:18 392:16 means 169:5 246:12 278:23 340:24 341:2,3 meant 158:24 164:17 166:15 192:16 193:16 195:2 196:18 197:12 198:16 199:2 204:2 205:7 213:17 214:4 221:3 331:12,22 343:16 measure 323:7 measured 324:3 measures 389:21 mechanical 162:25 175:9 176:24 177:22 208:13,20 208:23 209:8 210:23 217:6,11 222:23 225:2 226:16,20,24 227:6 228:17,23 229:11,16 231:10 231:16 248:9,13 248:15,17 249:2,7 270:8,20 288:15 292:10 295:12,18 303:6 347:17 368:16,23 369:6 mechanically 364:16	mechanics 368:5 meet 234:21 299:15 368:17 meeting 372:3 374:3 member 344:21 members 340:21 341:4 memorandum 335:7 mentioned 177:5 253:2 259:6 265:7 281:19 289:19 316:13 342:16 372:21 374:18 389:15 messages 224:21,22 met 155:12,16 391:17,17,18,18 391:19,20 meter 318:2 321:12 321:20 323:7,14 323:23 324:14,16 324:18,21 327:14 327:20 329:10 334:18 335:4,11 metered 322:24 324:8 326:18 meters 321:14,22 321:25 322:3,8,12 322:25 323:10,18 323:24 324:6,8 325:5,6,7 326:9 326:14,23 327:23 Meyer 177:21 180:18 185:15 microwave 356:15 356:15 middle 207:17 252:15 304:24 333:5 Mike 353:17 mile 269:15 million 280:6,7,17 280:20,21 281:13 mind 264:14 291:21 316:14 346:17 mine 381:5 Minnesota 150:15 380:24 minute 160:16 222:9 266:16 364:10 minutes 253:2 360:22,22 364:3,6 364:8 365:16 mischaracterizes 201:23 286:22 351:22 mission 377:13 missions 378:12 misspoke 287:11 misunderstanding 371:25 mode 247:19 modes 248:25	modifications 159:20 162:19 180:3 205:11 moment 187:7 195:25 365:23 money 279:11 280:18,24 281:5 282:19 344:10 345:6 MONGIA 153:24 monitor 309:16 monitoring 171:11 309:15 monitoring/control 309:3 month 180:22 227:3 287:8 293:7 317:10 months 384:15,16 386:25 389:16 morning 154:13,14 286:11 365:16 366:3 MORTGAGE 150:10,16 MORTGAGE-B... 150:17 motor 273:20,22,23 Motorola 224:16 motors 266:13 268:13 move 269:25 361:16 376:6 moved 173:23 361:18 moving 219:23 224:19 multiple 247:18 248:16 mustering 368:17 N N 152:2 153:2 154:2 154:2 286:2,2,2,4 286:4 341:24,24 348:23 400:2 name 158:5 180:4 309:13 341:23 342:16 343:2,9,10 347:19 348:19 349:3 403:4,5 named 196:11 329:21 375:23 397:4 names 340:11 342:15 345:15 346:23 348:9 350:2 373:6,8 Nancy 330:3 333:13 narrowed 233:10 nature 296:20 303:4 near 213:15 267:17 323:16 nearest 267:18,19 necessarily 283:10	necessary 162:19 295:14 329:8 391:5 necessitate 313:6 need 178:17 207:20 212:19,20 252:7 270:21 286:19 313:8,19 364:8,12 365:23 395:11,25 396:22 needed 187:19 188:15 215:15 235:9 240:6 247:6 273:22 338:13 339:9 369:3 needing 365:6,8 negotiations 337:25 neither 207:22 net 222:7 236:18 237:18,23 238:15 239:17,20 240:14 241:2 243:5 288:11 290:10 336:12 351:9,18 352:10 353:10 354:2 362:14 never 155:12 277:3 290:12,17 297:25 305:11 308:6 344:24 371:7 394:9 new 150:3,10,10,21 150:21 151:9,9,11 152:7,7,13,13,19 152:19 153:4,4,5 153:7,7,13,13 180:9 187:19 190:7 222:23 236:4 239:14 240:5 241:7,22 250:14 286:18 288:12,17,25 299:18 318:23 328:13 332:12 333:8 369:11,15 373:16,21 374:5 375:7 390:8,11 396:12 399:3,5,8 Newark 161:10 newspapers 394:18 night 305:2 317:24 nightmare 317:25 nitrate 262:9 nodding 154:19 nonpublic 299:21 normal 250:4 296:22 normally 360:4 north 235:4 249:14 262:7 269:8,12 270:6,15 277:25 324:15 367:13 376:3 379:16 381:11 393:25 Nos 157:6 160:12 167:10 303:24
--	--	---	--	--

307:11 339:16 395:19 400:15,18 400:21 402:6,9,21 402:24 Notary 151:11 154:4 399:7 note 214:7 224:13 227:22 228:7,11 230:18 244:4 247:8 263:24 364:12 noted 286:3 398:7 notice 275:5 notification 336:13 337:12 338:7 notifications 336:23 notify 333:7 337:15 November 192:13 192:17 293:12 number 154:9 196:15,22 198:20 204:4 205:12 211:4 212:10 219:22 236:17 241:15 242:17,19 242:23 247:16 248:5 250:11 253:23 257:21 271:23 273:24 274:2,2,21 278:11 278:21 308:25 310:6 312:13 319:17 329:25 331:11,14 332:2 332:15 387:3 398:4 numbered 265:15 268:5 numbers 257:21 265:13 268:17 281:12 331:3,4 332:25 333:17,20 333:24 numerous 211:4 357:5 NYPA 332:7 N.A 150:15 N.W 153:18 O O 154:2,2 286:2,2,2 286:4,4 341:24 348:23 oath 154:17 object 308:24 323:13 324:2 326:16 329:3 340:18 344:22 350:23 352:17 360:15 366:9 386:10 389:24,25 391:7 objection 161:2 166:5,7,16 171:16 180:16 190:8,17 190:18 193:21	195:4 198:23 199:8 200:22,23 201:15,22 203:7 208:25 209:10 210:21 211:25 212:16 214:7,22 215:4,17,18 216:2 216:23 219:3 223:8,14 224:13 225:16 227:13 228:7,12,13,20 229:5,14 230:18 231:8,18 232:13 233:9 235:14 238:19,23 240:10 240:11 241:9,18 242:4,12 243:10 244:4 246:23 247:8 250:10 252:22 254:5 255:17 261:6,22 262:18 263:17,25 276:2 277:16 279:16 282:24 283:25 284:19 286:21 288:14,22 289:3,24 291:17 297:8,9,23,24 298:15,25 301:11 301:12,25 302:6 303:13,14 305:20 305:21 307:4 308:16,22 309:11 310:4,13 312:2 316:6 322:10 323:3 331:17 332:4,5,17 334:2 335:13,14 336:18 338:10,15,16,25 339:2,4 340:9,17 344:6 345:9,19,20 346:2,3,10,11 347:2,24 348:13 350:18 352:8 353:12,13 354:4,5 360:6 377:3,17 382:2 384:22 388:22 390:22 obscures 252:2 obviously 365:21 OCC 164:5 167:2 216:5,25 242:2 396:12 occasional 360:2 occasionally 357:8 occasions 357:9 363:12 occur 213:18 occurred 279:14 occurrence 354:25 October 150:21 151:3 293:11 399:21 403:4 offer 196:6 offered 344:9 345:6 Offhand 231:24	office 161:21 175:20 282:7 294:14,14,17 329:24 360:13,24 361:12,20,25 366:12,16,19,24 367:8 370:23 371:2,3 offices 151:8 234:21 361:18 Oh 213:4 225:18 269:6 298:5 299:3 325:23 387:7 388:2 oil 262:9 321:12 okay 154:25 155:7 155:8 157:18 163:15 196:7,20 197:7,15 198:5 203:15,24 228:20 237:7 247:7 254:20 255:10 256:13 262:5 264:7 265:14,18 267:6,17 268:4,10 269:7 270:3,18 271:6 277:12 293:10 304:4 306:13 307:24 314:11,22 320:6 325:23 335:23 341:3 359:23 363:16 365:25 396:2 old 313:10 once 183:11 188:2 212:22 298:18 372:17 ones 176:3 209:14 268:19,19 289:16 313:16 354:21 one's 365:11 on-site 380:14 open 207:18 opened 260:3 367:20 376:8 operate 223:19 224:6 240:6 241:7 246:16 247:6 272:23 273:13 276:7,12 277:4 303:11 318:3 operated 223:6,12 223:24 233:16 246:22 247:3 249:9,19 306:15 307:3 313:14 operating 240:2 303:17 305:4,9,19 306:2,18 307:17 308:4 316:2 317:22 338:5 operation 167:20 168:18 249:21 309:23 312:24 361:2	operational 274:13 274:14,18 275:7 276:21 277:14 317:25 328:20 361:6 operations 157:24 163:24 164:4,19 165:11,15,25 188:22 209:25 210:23 211:12,14 214:11 215:7,11 215:24 216:19 217:7,11 220:13 220:17 225:3,3,4 225:5 226:13,16 226:20,24 227:6 228:17,23 229:11 229:17 231:10,16 241:25 303:5 309:4 342:5,12 346:20,21 347:17 357:18 358:13,16 358:22 operator 206:15,20 207:10,19,23 operators 206:18 222:23 317:2 opinion 201:11 389:3,4 optimistic 287:5 orally 154:19 orange 157:23 175:23 order 184:23 187:22 205:25 252:7 269:25 274:14 292:18 293:8,23 339:8 387:24 389:22 ordered 359:7 orders 292:24 354:11 356:5,8 359:5 organization 302:9 organized 292:19 oriented 305:23 original 164:23 170:2 244:16,18 245:8,14,24 246:3 314:20 originals 259:15 outage 162:25 outcome 399:18 outdated 165:10 outfall 375:16 376:14 outside 296:9 347:16 368:18 370:9 387:22 392:3 396:24 oversight 156:2 overview 247:4,7,9 259:5 owner 333:8 owners 317:2 ownership 306:4	o'clock 364:4,11 O'Connor 391:19 P P 152:2,2 153:2,2 154:2 286:4 348:23 page 157:16 158:12 158:21 163:14,18 164:9,10,13 168:25 169:11,11 169:12 201:5,7,8 202:17,22,25 203:3,6 243:17,20 243:22 244:3 245:17 251:24,25 255:9,16 257:8,13 257:13,16,19 267:9 307:18 308:2 312:12 314:12 315:2 320:14 325:3 333:5 339:25 342:8,11 343:25 345:10 346:18,23 348:8,11,15,17,18 350:4 352:24 379:3 381:7,14 397:22 400:3,8,9 403:7 pages 257:23 258:2 305:3 307:8,19 308:10,11 316:5 paid 344:4 paint 299:7 panel 273:10,14,25 276:6,10 panels 248:10 273:8 paper 397:2 papers 281:15 282:9 paragraph 304:24 306:14 309:18 317:22 396:10 paragraphs 262:17 parallel 352:13 park 370:21 372:2 372:6 parked 262:5 265:23,25 268:25 271:8 parking 262:6 part 163:9,23 204:20 232:4 260:23 284:23 304:10 311:6,10 333:6,18 341:17 341:18,25 351:19 358:5,14,23 365:4 365:6 372:22 partial 393:6 partially 252:2 participant 234:8 234:10 participate 243:7 participated 239:3
---	---	--	---	---

participation 235:6 particular 157:16 206:7,14,17 207:4 207:6 218:18 230:9 235:12 239:5 240:7 273:3 277:21 279:21 318:13 322:9 323:25 326:12,24 346:19 354:23 365:11 375:20 particularly 239:13 particulars 300:16 parties 223:2,6,11 223:18,23 224:4 307:3 399:16 parts 275:5 290:21 party 178:20 passed 370:18 Passeri 391:18 PASS-THROUGH 150:17 PATH 250:14 251:21 375:7 390:7,11 Pause 242:21 319:15 peak 275:13 277:7 pedestrian 376:4 pen 255:14 256:17 267:23,24 268:2 379:8 people 159:21 161:21,22 165:19 171:11 188:14,21 211:6 218:3,5,7 218:12,14 219:22 220:22 224:19 226:5,23 227:5 228:2 229:2,6,7 229:15,21 232:7,8 232:12 233:6 241:15,20,25 262:3 276:19 282:15 291:5,7 292:8,14 296:14 299:19 337:3 340:13,19 341:5,9 341:18 345:23 346:7,14,17 350:6 350:7,11,13 359:3 359:7,25 360:4 368:19 369:17,24 370:2 373:5,19,25 378:10 379:16,17 379:23 380:20,23 381:8 383:11,15 383:18 384:12 385:5,21 386:14 386:15,18,21 390:24 391:16,20 392:5,7,9,24 393:18 people's 359:5 percent 305:25 percentage 343:6	perfect 385:8 perform 292:19,24 293:13 383:20 performed 292:10 293:24 295:9 313:19,24 perimeter 299:10 period 180:12 227:9 227:11,16 228:15 238:14 239:21 240:25 243:4 288:10 289:8 317:11 340:15 351:18 352:9 353:9,25 355:10 355:17 357:5 361:4 362:9,18 389:12 periodic 293:4 periods 278:20 355:5,9 peripheral 250:8 251:4 permanent 206:21 206:22 207:14,16 207:22 permitted 309:20 perpendicular 199:24 person 177:15 207:19 208:8 216:24 219:6,21 228:12 292:13 296:6 305:23 329:24 personal 235:5 287:19 364:18 personally 176:21 225:21 235:11 236:11 290:3,13 394:23 personnel 217:18 perspective 316:18 Peter 385:25 390:24 391:3,12,17 Phil 373:9 phone 319:2 photographed 299:25 photoluminescent 299:7 physically 178:14 179:10 206:4 221:16 317:14 321:23 picture 390:3 pie 205:9,10,12,14 205:14 piece 205:8,12,13 394:16 pieces 205:9 368:11 390:2 pink 393:5 Pipe 254:11 pipes 271:15 284:14 390:5	piping 176:20 266:8 266:8 270:11,24 271:14,23 272:18 272:19,21,24 389:8 place 172:10 199:18 211:15 235:7 252:7 299:14 313:20 318:6,14 327:5 placed 185:10 326:14 placement 290:8,20 places 247:16 248:5 248:8,20 294:13 365:9 Plaintiff 150:6 152:5 plan 181:22 183:4 185:5,6 186:15 190:5 193:10 194:20 234:4 316:14,16 368:17 plane 366:16,21 plant 162:24 252:10 260:25 261:8,15 262:23 264:5 265:17,20,24 266:2,21 267:3,7 269:10 277:2,4 287:3 312:14,17 312:19,21,22,24 313:20,21,23,24 314:4,18,19,20,21 314:23 315:10 316:17,17,19,20 317:3,4,8 318:18 323:17 328:10,11 329:5 330:23 369:4 381:25 384:6,19 387:20 394:4 plants 261:14 312:13 313:13 342:7 378:14 383:16 384:21 386:8 platforms 280:15 plaza 193:14 194:19 262:24 318:8 372:2 please 154:18 155:4 157:22 161:15 163:13 175:2 188:13 190:23 192:4 197:16 237:19 243:14 245:17 252:8 257:5 264:3 297:11 309:12 314:2 320:5 325:5 365:23 366:3 373:8 379:9 plugged 390:7 plumbing 175:9 176:24 177:23	plus 389:10 point 156:5 159:14 162:3 166:3 167:23 174:24 176:3 177:10 204:16,17 210:11 217:13 218:22 219:24 230:13,15 230:17 236:13,19 237:12,16,20,21 239:18 243:17 257:8 264:22 271:8 285:4 286:12 309:19 321:14 322:22,23 323:5 326:17 347:25 351:16 356:24 358:2 361:14 365:23 366:18 367:12 368:10 369:20 371:3 383:24 384:5 389:5,18 pointed 376:5 points 309:17,19 317:23 326:20 police 224:25 370:14 politicians 318:10 pool 241:19,24 346:7 poor 212:21 256:11 pop 293:7 popcorn 356:15 pop-up 300:2 Port 150:9 153:4,11 153:25 156:23 159:2,8,11 160:5 161:5 165:14,24 166:19,21 168:10 209:17 215:20,22 216:18 217:8 223:12,20,24 225:14,20 227:11 227:16,23 228:4 228:17 229:3 238:16 239:12,25 240:7 259:11 260:12,14 281:14 293:17 317:11,15 321:15 330:10,13 338:4,12 340:2,14 341:9 343:21 345:4 347:7 350:22 353:5 375:19 386:5 390:19 391:5,23 392:3 portion 311:11 312:6 337:15 339:5,8 portions 212:23 248:18 322:9 350:16 PORT/SRI 157:3,6 167:7,8,10 172:16	172:18 173:11,13 181:12,14 182:18 182:20 183:20,23 184:18,20 186:5,8 191:20,23 194:7,9 303:22,24 319:23 319:25 335:17,19 395:16,19 400:15 400:21,24 401:3,6 401:9,12,15,18,21 401:24 402:6,12 402:18,24 position 161:8 237:10 238:13 260:12 347:6,8,10 347:25 349:12 352:2 353:11 357:17,25 358:11 358:21 positions 237:24 238:4,8 possession 394:12 possibility 297:13 297:21 298:3,8 possible 285:8 364:18 381:6 possibly 318:4 posted 188:17 pound 269:17 pounds 262:8 269:21,21 270:3 pouring 389:11 390:14 power 233:12,16 247:25 249:23 250:3,6,12,13,17 250:19 251:11,11 251:12,13,20 312:25 313:3,5,7 323:8 329:7 332:12,15 367:16 367:19 372:19 388:8,11 powered 251:14 299:7 preceded 331:5 predecessor 358:9 358:12 preemptive 292:25 preparation 155:14 187:12 318:12 prepare 155:9,20 177:16 present 153:22 163:19 164:11,18 pressure 269:17,19 269:20,23 270:2 270:10,10,23 271:2 pressures 270:5,22 pretty 172:3 266:14 268:11 274:17,18 275:2 302:8 368:12 prevent 299:11 300:3 370:6
--	--	---	---	--

<p>preventive 292:24 previous 155:15 165:7 182:2 183:8 186:21 187:14,17 198:6 202:19 226:10 252:6 previously 154:3 201:18 209:18 235:24 258:19 260:22 342:6 376:14 primarily 280:23 291:23 primary 261:7,11 265:22 print 294:8 342:12 350:20 printed 252:16 prior 159:15 160:21 166:6 173:5 177:10,12 180:12 201:23 202:8 208:18 214:24 216:20 217:15,16 217:17 218:24,25 221:19 222:7 224:11 225:14,19 226:24 227:2,3,3 228:18 233:13 235:18 236:14,15 236:17 239:11,17 239:20,21 240:14 243:5,24 246:19 250:6,19 286:22 288:10 292:4 310:23 336:12,13 336:19 339:2 342:24 343:22 351:5,9,18,23 352:10 353:10 354:2 366:8 373:14 private 281:11 privy 239:20 probably 188:20 202:7 206:10,19 211:10 233:10 234:16 243:24 254:16 256:4 272:15 283:5 287:7 288:3,4 294:15,16 348:20 358:20 365:15 382:24 385:15 problem 367:3 procedure 217:3 219:18 221:22 234:14 235:7 383:9 procedures 161:16 161:23 233:24 292:10 proceedings 242:21 319:15 process 182:4 183:9 185:17 283:12</p>	<p>328:14 379:21 397:11 produce 159:24 268:14 produced 158:17,25 177:17 245:5,7 259:13,22 295:20 producers 386:17 professional 364:15 program 297:2 project 163:8 318:16 342:23 351:13 projection 381:11 381:11 projections 379:17 pronounced 333:14 proper 299:20 properly 337:15 properties 150:8,8 171:2 316:23 \$17:17 321:16 property 280:25 290:8,20 296:17 296:25 306:5 309:16 312:8 316:24,25,25,25 317:4,6 330:6 proportion 207:8 207:12 208:3 224:15 protection 158:2 159:12,20 160:4 164:15 183:3 185:4 283:23 297:18 331:10 provide 291:4,15 300:5 329:7 333:9 336:23 337:2 338:6 344:11 provided 156:18 170:4 229:21,24 291:11,19 292:2 295:25 302:23,25 309:14 providing 301:21 psi 269:22 270:10 270:23 Pu 348:20 public 151:11 154:4 189:11 399:7 publication 164:24 164:25 170:2 publications 169:24 pull 243:13 pulling 370:19 pump 310:7,11 311:14 368:16 369:21,23 370:4,5 371:18 372:5,8 375:10,11 376:16 376:19,19 390:16 pumped 311:13 376:8 390:13,13 pumping 390:10 pumps 266:12</p>	<p>372:15,16 punchlist 328:18 purge 246:10,18 247:16,19 248:6 248:12 249:3,20 purpose 171:7 205:5,23 215:6 240:12 254:15 purposes 165:18 174:21 363:25 pursuant 151:10 push 377:20 put 234:17 248:11 268:17 279:10 295:3 299:4,19 300:2 315:19 318:20 325:9,14 325:15 348:19 356:14 365:5 p.m 285:10 286:3,9 319:8,11,14,20 363:19,22 398:3,7</p> <p style="text-align: center;">Q</p> <p>quadrant 248:21 quadrants 235:3 quadruple 251:10 qualified 241:3 qualify 159:4 216:8 quarter 269:15 question 155:4,6 160:17,19 174:25 190:19 195:16 197:22 204:8 205:4 209:4 214:8 219:8 224:9 228:9 230:19 235:16 236:23 243:11 246:25 284:20 288:8 345:21 352:11,18 363:3 366:10 questioning 364:16 364:24 questions 154:19 157:16 175:14 203:13 226:11 286:11 307:18 395:23 397:16,21 quick 247:7,9 274:17 275:5 quickly 274:19,20 quite 169:3 176:7 201:25 272:15</p> <p style="text-align: center;">R</p> <p>R 152:2 153:2 286:2 399:2 race 356:3 rack 324:13 radial 264:25 radiated 264:20 radio 219:19,19 221:23,23 222:2,2 224:10,12,17,25 225:2,4,5,7,24</p>	<p>226:3,6,17 233:13 233:15 357:3 367:9 368:25 378:4 393:18,20 395:2 radios 225:13 226:19 229:21,23 raise 344:9 RAJIV 153:24 ramp 324:15 379:18 381:12,16 381:19 ramps 300:2 ran 250:13 251:20 313:21,23 351:15 380:5,7 range 360:10,21 rated 275:19 Ray 341:24 375:23 391:18 reach 383:15 read 174:12 216:14 305:2 306:22 321:25 323:10,19 324:6,8 327:23,25 327:25 328:2,5 335:3 394:18 396:24 397:13 reading 253:6 281:15 305:7 321:13 333:24 335:12 396:19 readings 329:10 334:18 reads 321:13 331:2 334:18 real 150:11 267:13 356:19,21,25 realize 259:10 realized 317:24 really 167:4 170:11 180:11 213:2 218:2 247:3 287:9 287:22 291:20 292:15 320:19 354:7,11 374:23 reason 169:21 204:21 211:24 244:9 304:19 315:5 365:6 reasons 365:12 rebuilt 280:12 recall 156:11,14 201:20 222:5 244:21 276:5,25 286:23 296:9 298:14,16 300:12 300:22 301:3,8,21 305:17 315:20,23 318:5 322:4 324:10 346:6,9 366:15 receive 304:20 320:13,16,17 336:5 received 271:8</p>	<p>274:11 321:5 332:21 384:19 Recess 220:4 319:9 363:20 reciprocal 303:17 305:3,8,19 306:2 307:16 308:4 315:25 recognize 256:12 recollection 180:21 305:8 308:3 322:6 387:10 recommendations 293:4 reconstruction 261:8,16 record 154:11 157:9 160:15 168:16 172:12,13 174:15 195:11 216:16,17 220:3,6 242:16,25 243:15 245:10 253:25 257:2 259:9 268:19 285:2,10 286:9 295:4 310:17 314:7 319:6,8,11,14,19 325:14 329:15 359:21 362:23,25 363:17,19,22 364:2 365:5 394:25 398:3 399:13 recorded 288:4 322:2 records 180:19 259:12 rectangle 267:15 red 379:8 reduced 244:7,11 redundant 249:5,16 251:10 refer 165:19 166:8 169:10 171:8 174:22 190:3 195:6 197:15 199:10 202:21 204:2 220:8,22 231:2 245:16 249:14 251:24 257:7,19 305:23 314:2,19 330:21 331:23 332:12 333:25 334:25 345:10 346:18 348:8 350:21 380:21 381:14 reference 164:14 165:18 166:10,13 166:14 169:19 174:21 195:20 197:9 213:21 215:10 220:21 260:4 332:10 346:5</p>
---	---	--	---	---

referred 157:24 158:9 166:22 173:5 176:6 215:12 220:10 224:17 249:4 252:21 258:2 266:17 308:7 309:8,17 310:15 311:21 335:7 342:6 referring 169:17 203:19 211:16 216:21 230:10,25 267:9 308:9 341:8 342:2,3 368:2 379:22 refers 308:25 310:6 312:18 331:8 reflect 317:18 reflected 200:12 reflection 335:10 refresh 305:7 308:3 refrigerant 272:20 refrigeration 162:24 260:25 261:8,13,15,17 262:23 264:5 265:16,20,24 266:2,6,10,14,17 266:21 267:3,7,20 268:5,6,7 271:24 275:20 277:2,11 280:4,8 287:3 311:17 312:14,18 312:21,22 313:20 313:23 314:4,14 314:18,19,20,21 314:23 315:10 316:19 317:3,8 323:17 369:4 376:17 378:14 381:25 383:16 384:6,18,21 385:6 387:13 394:3 regard 290:9 298:12 301:10 regarding 286:18 296:17 297:18 REGISTERED 150:15 regular 295:14 reinforcing 266:5 Reiss 294:14 304:16 305:13,18 315:17 317:20 reiterate 365:20 397:17 rejected 313:8 related 228:6 399:16 relationship 306:17 relay 224:21 relied 166:20 233:16 RELIHAN 153:25 relocated 396:11	rely 165:25 166:9 214:18 215:2 241:25 remarkably 387:20 388:16 remember 154:22 156:19 175:25 277:18 283:14 291:7,25 295:24 301:17 304:9 328:21 330:20 344:13 346:16 373:6,12 384:2,4 396:11 remembering 220:9 remind 154:16,18 161:5 237:19 260:11 remote 249:4,11,17 removed 386:22 rendering 175:12 197:25 254:8,23 255:4 256:11,16 REOA 306:7 reorganizations 238:11 repair 260:24 275:24 276:17 280:25 282:12,22 283:12 284:23 287:3 300:24 repaired 276:14,15 276:16 283:5 386:18 repairing 263:11 repairs 205:11 261:4,9 280:4 281:9 295:13 300:17,18 repetitive 284:5 replaced 273:22 report 235:12,20,25 236:11,21 237:2 237:13 238:5,17 243:6,8 289:18 351:7 352:7,15 353:23 355:8,13 357:10,20 359:6 362:7,17 391:15 reported 150:24 355:13 reporter 154:16,20 154:23 reporting 309:23 351:12,20 represent 193:17 196:18 197:12 213:18 255:20 307:15 331:12 representation 181:2 252:19 253:9 315:2 325:24 326:2 representative 290:23 representatives	224:5 represented 182:12 183:15 190:5,12 190:15 195:13 198:20 200:6 205:18 212:14 256:3 258:24 315:5 320:14 representing 256:2 represents 252:4,12 307:16 reproduction 198:4 request 295:3,6,22 298:11 300:8 314:5 337:4 requested 382:16 391:21 REQUESTS 400:7 400:8 require 313:9,11 required 336:12 338:6 352:7 354:7 362:17 rescue 363:15 377:25 378:9,12 380:21 392:5,24 393:18 research 159:22 175:16 186:19 337:14 researching 175:6 175:15 397:11 reserve 328:6 respect 229:16 290:14,19 364:23 respond 219:20 Responding 365:4 responsibilities 156:2,6 160:5,19 160:21,23,24 168:13 171:19,22 204:10 215:23 222:20 223:3 228:5,23 229:3 230:3 233:23 236:16 260:23 261:4 262:12 263:19 286:13 289:25 318:14 351:19 358:15,24 391:8 responsibility 159:12 235:25 236:7,11,20,25 237:4,6,6,8,9,13 238:4,17 239:2,13 240:2,20 241:4,5 243:6 263:10 288:11,16 289:8 289:22 293:20 321:15 351:6 352:13,15 353:22 355:12,19 357:6 357:20 358:6 362:6,8 391:3 responsible 228:16	228:18 286:17 396:13 rest 205:14,14 367:10 387:11 restraints 365:21 result 261:21 263:15,21 265:20 281:2,10,20 283:17,23 284:6 300:10 resumed 154:2 286:5 Ret 341:22 358:9,12 retail 180:9 189:12 returned 318:18 367:8 370:24,25 374:21 returning 224:9 226:10 288:8 reuse 387:14 reused 388:21 review 155:19 157:11,13 162:19 163:10 169:2,5 185:19 307:20 320:5 335:22 339:22 340:10 346:23 348:9 349:9 395:24,25 reviewed 179:22 308:17 348:10 Reynolds 153:14 159:14 320:15 322:10 323:3,13 324:2 325:13 326:7,16 329:3 332:4 333:2 334:2 334:5 335:14 336:18 338:10,15 338:25 340:17,25 341:11 343:8 344:6,22 345:20 346:2,11 347:2 348:6,14,22 350:18,23 351:22 352:8,17 353:13 353:25 354:4,17 355:15 359:21 360:6,15 361:14 361:24 362:9,22 363:23,25 365:14 366:9 374:6 377:3 377:17 382:2 384:22 386:10 388:4,22 389:24 390:22 391:7 396:21 397:21 Rick 373:10 right 168:8 178:13 189:10 196:2 199:17,18 202:5 213:8 221:19 232:10 234:12 251:6 270:17 278:15 299:12 313:17 324:14	343:9 362:3 372:10 373:13 374:19 385:13,18 387:22 391:6 right-hand 169:25 192:12,25 196:9 197:8 203:17 Rinaldi 385:25 390:25 391:17 Rinaldi's 391:3,12 ring 299:10 riser 190:15,20 risers 191:3 risk 290:14 302:11 302:19 risks 297:5 301:5 river 310:7,11 311:12,13,14 368:15 369:21 370:13 371:18 372:13 375:6,13 375:15 376:13,15 376:18,21,22 377:15 389:10,13 roaming 296:13 Robert 329:21,23 rollup 393:20,22,24 393:24 room 163:20,22,23 164:2,11 169:14 210:7 211:15 221:17 234:17 248:9,14 249:2 254:11 267:14,21 268:9 269:8 270:7 270:13 274:5,7 277:25 280:19 281:6 314:14 323:14,23 324:20 327:20 387:13 rooms 208:13,20,23 209:8 248:15,17 249:8 270:8,20 311:19,19 369:6 Rosen 152:10 155:16 roster 292:8,17,22 292:23 293:7,15 294:2,20,23 295:8 295:15,16,17,19 rosters 292:12 rough 217:23 226:7 263:3 Round 276:4 routines 292:9,13 292:17,22,23 293:7,16 294:2,21 294:24 295:20 RQ 295:3,22 run 279:21 317:12 317:15 388:17 rung 211:10 running 279:7 337:24 387:24 390:7 runs 198:22 199:23
--	---	---	---	--

<p>ruptured 262:22</p> <p>S</p> <p>S 152:2 153:2 154:2 154:2 286:2,2,2,4 286:4 330:5 348:23</p> <p>safety 239:19 289:20 345:12 353:2,17</p> <p>sake 232:6</p> <p>salary 343:21 344:16</p> <p>salvaged 387:14 388:21</p> <p>sanitary 389:9</p> <p>sat 231:25 264:12</p> <p>satisfied 180:25 182:11 183:14 185:22 186:23</p> <p>Saturday 305:2</p> <p>save 279:11</p> <p>saw 167:25 191:10 265:3,11 354:12 354:13 357:11 359:13,16 367:14 368:10 371:7 385:21 394:10</p> <p>saying 154:24,24 174:23 197:22 271:11</p> <p>says 158:20,20 163:18 164:23 168:8 169:2 197:6 197:6 198:15 199:22 213:7 254:10 269:6 317:23 331:19 332:7 333:16 340:2 342:12 347:22 349:4 352:25 396:11</p> <p>scattered 265:5</p> <p>Schedule 340:2</p> <p>Schematic 193:10 194:20</p> <p>school 296:21</p> <p>scope 233:20 311:4 359:17</p> <p>search 178:20 363:14,15 377:25 378:4,9,11 380:21 392:5,24 393:17</p> <p>searched 299:22</p> <p>season 180:22 275:6 275:8 277:9,9</p> <p>second 169:2,5 201:2 304:24 308:10 312:12 316:5 330:24 339:25 343:6,24 362:23 366:21</p> <p>secretary 367:3 370:25</p> <p>section 197:6 198:14 205:16</p>	<p>271:22</p> <p>sectionalizing 193:10 194:21 197:3 198:8,10,19 198:21 199:6 200:5,14 204:5,18 205:2,6,23 207:9 207:13,21 208:4 211:18 212:13,25 214:17,25 215:13 216:21 218:15 219:7,11 221:21 226:14 230:4,8 231:6 240:2,6 241:7,24 284:22 286:19 288:18,24 345:17,24 350:15 395:12</p> <p>sections 162:18,20</p> <p>secure 283:10</p> <p>secured 370:5</p> <p>SECURITIES 150:16</p> <p>security 299:18 345:11 352:25 353:17</p> <p>see 158:13,22 162:4 162:10 163:20 164:15 168:25 169:15,25 189:2,5 192:12,14 193:11 196:12,15,24 197:10 199:9 203:19,24 213:3,6 213:11,21,25 234:15 237:12 244:12,13,19,25 252:5,17 254:10 254:21 256:21,23 257:13,24 258:15 267:5,14 269:2 294:16 295:5 299:5 305:4,22,25 306:19 309:5 319:2 331:5,20 332:8 333:10,18 340:4 342:9,15,19 342:22 343:3 345:12 346:23 347:3 348:19 353:2 354:9,19 356:19 357:14,16 357:24 359:13 367:13,22 381:25 385:8 393:3 394:22 396:14</p> <p>seeing 304:9</p> <p>seen 157:19 161:13 167:16 172:20 173:15 181:16 182:22 183:25 184:23 186:10 191:25 194:11 209:14 254:25 304:5 305:11 308:6,10 320:7</p>	<p>334:14 335:24 339:19 369:7,8,8 396:3</p> <p>segregate 317:25</p> <p>Seliga 330:3 333:13</p> <p>Sen 348:20</p> <p>send 247:13,22 356:18</p> <p>sense 197:24</p> <p>sensors 309:16</p> <p>sent 332:20 334:21 370:9</p> <p>sentence 304:25 305:5,7 306:13,20 396:10</p> <p>separate 176:5 295:16,17 316:23 316:24 317:12,17 318:3</p> <p>September 156:12 181:8 182:14 183:17 186:3 187:4 190:4 200:15 202:6 207:25 210:13,19 211:23 214:21 222:16 223:4 227:7,10 228:3,15 230:16 246:19 250:7 259:16 275:15 287:24 293:10 310:23 315:11 328:15 340:16 347:8 349:12,14,18 362:19 363:7 364:14 366:3 374:22 382:17 383:3 395:3</p> <p>sequence 160:9 319:22 333:21 334:9</p> <p>series 150:17 156:13,17,24 157:2 167:7 172:15 173:8,10 173:10 191:18 335:17</p> <p>serve 248:19 277:21 277:22 278:2,4,13 278:17,19 279:14 279:21</p> <p>served 248:17 316:19,20</p> <p>service 196:23 279:24,25 294:17 337:7,10</p> <p>serviced 270:7,8,19</p> <p>services 180:20 340:4,7,23 344:10 346:22</p> <p>set 178:7,10,17,19 178:19 209:13 226:10 228:22 229:2 252:23 263:8 279:25</p>	<p>318:11 356:17 399:11,21</p> <p>sets 178:18</p> <p>seven 182:8 253:5 266:23,25 267:8 275:6 276:8</p> <p>severed 372:17</p> <p>severity 360:8</p> <p>sewer 383:12</p> <p>shafts 281:23 282:2</p> <p>shaking 154:20</p> <p>shape 256:3</p> <p>share 223:11</p> <p>shared 223:22 225:4</p> <p>sharing 224:3</p> <p>sheared 271:14,18</p> <p>Shearin 373:10</p> <p>sheet 294:9 403:2</p> <p>sheets 337:8</p> <p>shells 270:25 271:2</p> <p>shifting 217:18</p> <p>short 274:14,15 285:5,5</p> <p>shortest 368:7</p> <p>shortly 274:21 366:20 374:24</p> <p>show 209:15 268:2 359:8 381:10 395:16</p> <p>showed 172:3,5</p> <p>shown 381:12</p> <p>shows 252:9 256:19</p> <p>shut 205:13,17,24 206:4,5 208:8 247:13,22 288:21 288:23 337:3,21 363:13 370:5,7 372:8,14 376:9 389:14 390:5</p> <p>shutdown 337:7,11 337:14 338:2</p> <p>shutdowns 336:13 336:24</p> <p>shutoff 375:15</p> <p>Siamese 199:5</p> <p>side 169:25 173:23 196:9 197:8 205:13,24 228:12 252:14 267:17,21 267:21 268:8 269:8 270:6,13,15 278:9 279:3,3,4,4 367:13,23,25 368:2 390:11</p> <p>sides 269:10</p> <p>sign 219:19 221:23 299:16</p> <p>signage 185:5,6</p> <p>signal 247:13,23</p> <p>significance 326:12</p> <p>signs 185:7,10 299:8</p> <p>SILV 307:7,9,11 334:10,12 402:9 402:15</p>	<p>Silverstein 150:8,9 152:11 223:2,6,11 223:18,23 224:4 227:12 229:8 290:5 302:9,14,16 303:10 307:2 318:7,9 321:16 333:7,16 336:10 336:21,22 337:2,4 340:15 344:4,21</p> <p>Silverstein's 188:21 229:6</p> <p>SILVIO 153:23</p> <p>similar 182:4 189:14,20 209:14 316:2 353:22</p> <p>similarly 200:12 242:7 310:6,14,18 311:20</p> <p>Simonetti 341:24</p> <p>SIMPSON 152:4</p> <p>simultaneous 182:7</p> <p>simultaneously 183:8 276:18 328:25</p> <p>Singh 373:9</p> <p>single 211:14 248:20 278:15 321:18,20 329:16</p> <p>sir 157:20 163:20 167:17 172:21 173:16 182:23 186:11 192:2 194:12 249:23 256:22 257:8 304:6 307:14 320:8 334:15 339:20 396:4</p> <p>site 156:3,7 297:6 363:7 369:18,19 374:22 376:25 377:22 382:14,19 382:20,23 383:5 383:19 386:7,21 390:20 391:14 392:4,14,21 394:11,15 395:11</p> <p>sitting 204:13 230:16 291:25 295:24</p> <p>situation 163:20,22 163:23 164:2,11 169:14 213:18 245:20 279:13 297:17 298:23</p> <p>situations 165:19 354:14,19</p> <p>six 182:8 387:5</p> <p>size 244:11,22</p> <p>Skadden 151:8 153:10</p> <p>sketchy 310:24</p> <p>skip 363:5</p> <p>slab 265:24 387:20</p> <p>slash 255:18</p> <p>Slate 151:8 153:10</p>
---	---	---	--	--

<p>slightly 174:10 sluice 370:5 372:15 small 174:12 191:10 196:15 205:6 213:6 284:15 296:19 301:15 327:20 328:19 339:6 341:16,18 341:25 346:7 348:15 smaller 173:22 266:7 279:8,10 312:18 313:24 smoke 246:10,16,18 247:9,10,15,19,20 247:21 248:2,6,12 249:3,20 263:9 281:19,25 282:3 282:12 356:16 367:21 snapped 271:20 snuff 159:24 software-based 309:14 sold 311:16 somebody 356:14 356:19 soon 167:25 soot 282:8 sorry 177:18 180:23 190:13 195:9 196:6 197:21 198:21 199:2 209:4 221:3,11 226:22 248:13 252:12 253:7 254:20 260:16 269:6 272:3 284:16 288:5 291:9 314:8,11 330:10 342:20 347:7 350:12 361:12 371:23 397:17 sort 256:2 287:16 299:12 source 233:12,17 247:25 250:4,18 388:8,11 389:7 south 235:4 262:6 268:25 270:13,15 278:2 324:16,19 370:16 379:16 380:4 381:11 Southeast 193:14 194:19 southerly 380:4,8 SOUTHERN 150:3 space 189:11 207:18 246:14,17 247:10 248:19 254:18 359:10,25 369:24 spaces 176:19 210:25 span 287:20</p>	<p>speak 154:22 202:8 speakers 234:17,19 speaking 259:7 special 278:11,12 278:14 specific 157:16 171:19 176:3 219:16,21 265:13 268:18 290:19 362:5 specifically 170:11 171:23 240:4 258:4 283:14 288:18 341:8 352:15 speculate 192:18 333:3 334:3 340:25 348:6 351:2 396:21 speculation 360:17 384:23 speed 300:4 spell 341:23 Spelled 348:22 spend 296:12 spent 280:7,18 281:5 spoke 245:21 287:2 375:21 spoken 277:24 sporadic 355:11 springs 264:14 sprinkler 172:25 173:7,20 176:4 179:7,11 181:2 185:8 186:15 205:10 284:6,13 284:24 sprinklers 189:22 sprung 283:9 square 151:9 153:12 313:4,4,11 SR 150:4 ss 399:4 stack 258:18 staff 210:23 224:15 225:14 227:17,24 231:10,16 368:16 368:23 staffed 171:10 stair 378:22 stairs 299:6,8 372:5 stairways 378:2 stairwell 378:21 379:4 stairwells 378:20 379:12,15 stamp 191:19,20 251:25 stamped 157:3 160:10 172:16 173:11 194:6 303:21 307:7,9 319:23 334:10 339:14 stand 280:16</p>	<p>359:25 standard 213:18 standing 272:8 385:9 standpipe 167:21 168:12,19 169:14 169:18 176:5 181:21 185:9 190:5,6,11,15,20 196:21 204:3,3 212:24 258:16 standpipes 189:4,21 standpoint 288:15 stand-alone 276:13 start 177:12 195:22 223:21 249:7 262:4 274:24 339:6 362:11 382:23 started 162:5 288:9 349:20 365:10 Starting 196:7 247:20 starts 304:25 state 151:11 335:2 364:9 365:14 370:21 399:3,8 stated 215:9 265:9 275:2 348:4 statement 205:7 352:19 363:24 states 150:2 158:13 193:9 306:14 309:2 333:6 380:23 static 269:19 stating 286:23 station 249:4,11,17 310:7,11 311:14 368:16 369:21,23 370:4,5 371:18 372:3,5,9 376:16 376:19,20 stay 364:17 stayed 369:18 steam 162:24 316:20 317:3 323:10,14,18 324:4 327:25 331:24 332:2 383:13 steel 266:4 271:16 284:13 385:13 388:19 step 222:8 263:18 stick 224:10 Stickelman 153:8 157:12 158:18 161:3 165:17 166:3 189:7 190:8 190:17 192:6,18 193:13 195:4,23 198:23 199:8,16 199:20 200:24 201:5,15,22 202:2 202:20 203:7</p>	<p>210:11,19 212:2,9 212:16 214:7,20 215:18 216:2,16 217:13,24 218:22 218:25 222:6 223:8,14 224:13 225:16 226:8 227:13,22 228:7 228:25 230:13,18 231:18,23 232:5 232:13,21 233:18 235:14 238:19,23 240:10 241:9,18 242:4,12 243:10 243:15 244:4 245:3,6,9 246:4 246:23 247:8 252:22 253:24 254:5,24 256:5 257:3 259:10,15 259:23 261:22 263:17,24 269:3,5 276:2 277:16 279:16 280:5 282:13 283:25 284:19 286:21 288:14 291:17 295:6 297:8,24 298:25 301:12 303:14 305:20 306:6 307:4,23 308:22 318:22,25 365:8,17 stickler 325:15 stop 266:16 363:16 364:9 372:13 stopped 367:17 390:14 stops 321:15 storage 254:7 store 180:5,6 196:14 stored 208:15 stores 196:10 stories 384:24 story 385:4 387:10 stranded 367:17 strange 264:19 371:5 Strauss 357:16,17 street 152:12 153:18 261:14,17 277:2 324:15,16 324:17,19 367:23 367:23,25 368:3,4 368:8,10 369:22 371:20,22 373:25 374:2 375:16 376:2 377:5,6,7 378:24 379:18 381:12,16,19 383:12 strike 161:11 174:20 184:7 190:13 223:2,20 252:13 253:7</p>	<p>281:18 307:2 330:2 350:12 390:17 string 320:11,18 strobe 234:16 Strong 177:21 180:18 185:15 structural 225:4 261:25 262:13 263:6,11 266:4 271:16 295:13,19 358:22 structurally 364:17 structure 280:11 structures 318:19 330:23 342:7 study 212:20 stuff 178:24 180:5 260:5 264:14,21 265:2,11 283:5 291:2,1,24 294:10 299:18 368:10 383:12 subgrade 250:13 262:23 263:5 264:17 265:7 282:2 300:3 363:15 377:15 378:3,5,25 389:13 390:12 393:10,19 subject 219:24 321:8 334:17 336:8 363:5 374:16 subjects 301:8 302:3 364:25 Subscribed 398:13 403:23 subsequent 260:10 substantially 328:17 substation 322:16 322:17,20,24 337:11 substations 322:22 subterranean 310:7 369:24 371:11,17 371:25 373:2,20 Sullivan 375:23 391:20 summation 337:20 summer 275:14 277:6 287:10 summertime 313:22 supervised 241:3 supervision 224:22 supervisor 225:10 237:25 238:2 240:17 260:21 347:23 348:5 353:18 supervisory 352:2,6 353:11 supplied 326:20 389:18</p>
--	---	--	---	--

supplier 275:3 331:24 suppliers 386:17 supply 328:3 376:12 388:14 389:22 Suppose 205:10 supposed 235:8,11 292:20 sure 159:23 187:22 188:24 199:17 202:3 205:20 219:9 247:2 254:9 256:15,18 264:11 267:2 286:25 287:4,9 292:5,15 298:5 299:3 322:14 325:23 337:6 338:19 362:2,24 382:25 390:8 Surface/Subgrade 254:18 surmise 305:12 surrounding 253:14 survey 175:7 176:12,16 178:8 179:6 186:19 189:14,17 191:12 surveys 177:3 178:4 198:7 survivors 363:15 Swiss 403:4 switch 249:3 266:7 273:9,11,25 274:2 switchable 225:7 switched 250:3 367:18 switches 248:11,24 249:8 sworn 154:3 398:13 399:12 403:23 system 158:3 159:12,20 160:4 167:21 168:12 169:14,19 173:7 190:6 205:12 222:3 224:12 232:3,7 241:16 246:10,16,18 249:23 250:6 251:8,10,22 255:12 283:23 284:6,24 309:2,3 309:9,14,15,21 310:3,8,25 311:3 311:5,7,20,21,25 326:18,19,21 331:15 332:2,15 337:3,15 338:14 338:23 339:6,9 372:12 375:6 systems 157:25 163:2 164:15 168:19 171:11,12 179:3 222:23	233:13 250:16 251:4,17 259:6 308:14,19 310:15 310:16,19,19 312:4 315:18 316:3 317:13,18 318:3 328:25 329:18 336:14,15 336:17,24 338:9 347:17 370:7 389:10 T T 286:2 399:2,2 tag 196:25 take 205:8 219:25 233:7 238:8 240:15,19 241:11 267:25 271:25 280:14 299:16 313:20 319:3 360:12 361:8,22 365:23 379:8 382:22 386:24 392:25 taken 220:4 254:15 260:3 318:16 319:9 363:20 370:24 389:22 talk 265:16 267:6 268:18 296:5,14 296:14,19 298:9 301:15 364:21 374:17 393:2 397:10 talked 155:24 170:5 235:2 290:21 291:10,12,24 292:3 298:21 300:15 301:13,14 315:15 373:15 380:10 383:13 386:3,20 389:5 talking 187:6 199:18,21,23 202:14,16 213:3 216:6 222:6 234:2 262:2 268:20 271:15 273:2 274:22 286:12,12 316:12,18 358:2 371:24 374:15 393:17 talks 317:20 tallies 337:24 tank 321:12 tanks 254:7 328:6 tap 303:6 tape 154:8 242:14 242:17,17,19,22 319:12,16 398:4 tasked 239:13,25 240:4 tasks 228:6 383:21 taxi 370:15,16 team 178:25 222:22	223:11 318:21 340:14,21 341:4,6 341:8,10,12,19 344:5,11,21 345:6 teams 363:15 377:25 378:4 380:22 381:23 Technology 253:19 253:21 254:14 402:3 telephone 296:6 tell 156:5 157:22 161:15 188:13 192:4 194:14,18 194:22 196:19 199:13,20 201:8 202:24 203:25 205:5 210:25 212:17 219:6 231:20 232:2 238:25 245:18 246:12 250:22 252:3 254:23 255:3 281:21 287:11 288:5 292:16 297:11 299:2 309:12 312:20 316:15 335:15 343:15 344:15 345:14 347:13,20 348:10 356:20 366:2 371:15 373:8 384:7 385:2 387:11 390:4 telling 277:8 temperature 275:16 ten 361:19 tenant 225:22 342:22 349:8 351:13 tenants 180:9 282:17 311:17 338:6 term 170:19 171:5 246:10 249:22 305:24 327:6 terms 160:20 287:8 territory 222:9 terrorism 302:5,11 302:19 terrorist 297:13,21 298:4 terrorists 262:21 tertiary 251:12 testified 154:5 156:16,21 184:14 189:8 200:10 201:18 202:3 214:10 219:9 221:14 235:23 236:24 237:5 239:4 241:10,14 243:23 259:24 260:22 286:5 317:10 357:4,11	376:14 testimony 198:6 201:24 202:8,19 208:18 243:24 286:22 323:4 336:19 338:17 339:3 351:23 388:12,15 394:6 399:13 THACHER 152:4 thank 154:15 174:17 179:22 193:16 221:19 228:13 256:21 260:8 288:2,6 308:9 315:15 325:10,18 353:8 374:15 397:19 thing 162:25 287:19 294:8 296:22 299:13,17,25 300:4 323:11 337:19 367:2,6 371:5 375:9 things 239:16,21,22 251:5 254:6 264:18 265:5 283:3,9,10,11 293:2 297:16 298:22 299:6 367:14 383:14 385:19 think 169:21 174:24 176:5 219:23 233:8,10 242:11 268:2 273:2 276:17 285:3 287:4,5 295:7 296:3 298:17 317:20 322:7 329:12 359:9 374:2 382:7 384:16 389:4 395:24 thinking 354:22 thinner 270:25 third 343:6 thoroughly 337:13 thought 220:24 232:3 235:23 298:2 317:23 371:23 376:5 385:14 thousands 204:14 230:21,22,22 389:11 three 171:13 178:21 196:5 224:23,24 250:19 253:18 265:10 277:11 282:14,17 287:8 327:17 331:4 332:25 333:20 343:2,9,15 350:11 355:10,10 364:3 377:8,14 381:8	three-quarter 327:21 thrown 387:15 thrust 303:2 tidal 375:8,12 tied 284:14 309:15 370:15 TIM 153:8 time 154:11 156:6 159:14 161:9 162:3,22 163:7,9 166:4 167:23 180:8 181:5 182:2 182:10 183:13 185:20 186:25 188:19 189:22,25 203:10 210:12 212:20 217:14,18 218:23 220:3,6 222:10,21 224:10 227:2,9 228:2,14 230:14,15,17 235:2 236:13,16 236:19 237:12,16 239:18 242:16,25 243:4 261:18 264:6,11 266:21 276:20 277:14 282:11 285:9 286:3,9,13 287:20 288:10 289:7 291:6,6 292:6 299:4 300:24 301:9 313:14 316:13 317:11 318:15,20 319:8 319:11,19 330:17 332:21 338:3,13 339:10 342:5 348:2 352:9 353:9 353:19 354:24,24 355:13,16 357:6 360:7,8,20,24 361:4,15,25 362:14 363:3,19 363:22 364:4 365:13,21 366:7 370:23 371:6,8 373:14 374:13,21 375:4 380:14 382:13,16,16,22 383:21 384:9 389:12 391:21,22 393:8,15,15 397:20 398:3,7 timed 239:8 timely 293:25 times 151:9 153:12 164:19 217:19 236:17 297:12 355:8 356:13 357:5 361:18 371:7 382:18 383:4 391:16 TIMOTHY 153:14 title 193:3,3,5,9,13
--	---	---	---	--

194:19 252:3 305:12 330:19 334:17 340:2 342:4,16 345:11 345:15 350:20 titled 168:17 titles 350:20 353:18 today 155:10,21 174:14 204:13 230:11,16 291:13 291:25 292:3 295:24 312:15 314:15 328:8 345:18,24 346:6 365:10 378:14 382:18 395:13 told 187:11,19 205:22 281:14 299:2,3 351:17 359:9 384:8 Tom 391:19 ton 268:13 279:5,5 279:9,9 tone 234:19 tons 261:17 275:19 275:20,22 277:8 277:10 tool 293:13,22 tools 208:14 top 158:20 163:18 273:21 326:8 329:20 332:24 379:6 topic 212:3 318:23 total 275:20 290:25 299:9 344:18 365:15 393:6 totality 282:22 totally 264:23 273:11 370:11 tower 249:15 262:7 268:25 269:3,5,7 282:18 361:13 367:13,16 369:22 370:20 371:12 372:17 394:17 towers 269:14 270:7 278:5 282:5 361:16 397:8 trace 179:7 track 252:10 292:18 trade 150:8,13,13 150:14,14 156:3,7 156:19 157:25 159:13 161:17,22 162:5 167:22 168:2,17 170:24 171:20 172:24 173:7,19 181:20 183:2 185:3 186:14 204:10 217:10 222:3,18 223:6,13,25 224:16 225:13 227:18,24 228:5 229:11,17 230:9	233:23,25 234:7 235:20 239:10 246:19 250:6 252:4 254:4 260:11,17,18,24 261:4,20 262:14 263:21 281:2 283:17 289:16,17 290:5,9,15,20 295:10 296:13,17 296:24 297:6,22 300:10 301:6,10 301:24 302:12,19 304:8,10 305:14 306:25 308:19 309:22 313:2 315:18 321:18 322:17 323:6 326:19,24 327:14 328:12 329:6,24 330:9,12 331:15 332:3,16 338:5 352:14 353:7 361:20,21,23 363:7 366:4 378:25 392:13,21 394:15 395:6 397:19 transfer 264:16 265:7 272:20,21 transferring 292:6 306:4 transition 222:22 223:10 227:11 318:7,12,21 340:3 340:7,14,21,23 341:4,6,7,9,12,19 344:5,11,21 345:5 365:17 transmitted 298:16 transportation 358:4 transpose 256:7 trapezoid 256:2,7 trapped 368:19 Travelers 152:17 tried 317:16 378:16 tripped 372:20 trouble 375:7 truck 262:7 265:23 265:24 268:24 271:8 299:23 truckload 262:21 true 221:11 312:9 352:21 399:13 TRUSTEE 150:15 truth 196:20 try 155:4 210:13 256:6 267:9 317:15 367:10 368:13 383:15 trying 191:2 195:17 206:3 214:17,25 219:15 228:21 262:19 301:16 312:6 326:13	346:15 352:12,20 369:8 383:13 tubes 270:24 tunnel 250:14 251:21 tunnels 375:7 390:7 390:11 turn 161:12 163:13 206:6 247:5,18 264:22 312:12 359:4 360:4 388:13 394:2 turned 265:22 TURNER 152:8 turnstiles 299:19 Twelfth 153:18 Twin 397:8 two 174:8 178:18 196:10 205:2 207:6 211:18 213:3 236:17 237:17,22,24 238:15 239:16,19 240:13,25 243:5 245:19,21 257:21 257:25 258:2 262:17 269:10 278:24,24,25 286:14 287:8 288:10 307:8 308:10,11 316:5 325:11 328:24 350:13 351:18 352:10 353:9,19 353:21 354:2 355:10 360:22 381:10 two-page 312:10 type 162:25 296:21 299:17,25 300:4 types 264:17 typical 213:20 U U 348:23 UBS 150:11 UB-6 253:19,21 402:3 Um-bum 216:7 260:20 269:9 326:10 unable 212:17 377:12 unaware 368:20 unclear 209:4,5 uncovered 386:13 undergo 182:4 Undergoing 183:9 underground 363:13 381:24 383:25 underneath 199:24 322:16 324:17,18 345:15 372:7 376:3 378:25 understand 155:3,6	174:22 190:19 204:8 205:4 212:23 216:24 227:10 228:9 235:16 236:23 253:12 260:8 276:24 283:13 314:25 322:14 333:23 340:24 341:4 347:21 352:11,22 359:20 364:22 384:10 392:16 394:5 understanding 174:7 177:25 258:21 264:9 275:23 277:12 280:8 303:10 306:24 308:18 309:7 332:19 335:9 340:6 341:12 362:4 understood 341:6 undertake 187:8 underwriters 290:24 unfamiliar 351:14 unfortunately 252:2 uninterruptable 250:17 unit 275:24 276:13 281:24 387:3 United 150:2 380:22 units 247:19 268:15 387:6 388:21 unknown 320:24 unstable 393:7 unsuccessful 378:17 untouched 264:21 unusual 354:25 update 187:21 updated 162:13 163:11 169:4 180:7 193:24 386:23 updating 162:14 163:4 upgrade 313:3 UPS 250:17 upset 162:24 165:22 165:24 upstairs 369:21 up-to-date 187:24 193:22 194:2 200:11 220:15,23 220:25 221:4,6,8 221:13 urban 363:14 377:24 378:9 380:20 392:5,24 393:17 Usage 254:19 USAR 380:20,21 use 267:23,24,25	293:22,23 367:5 usual 348:22 usually 192:22,24 193:5 383:9 utilities 329:16,25 333:18 363:13 utility 317:22 318:2 321:14 324:13 333:8 383:11 V valve 181:21 183:3 185:4 186:15 190:5,6,16 191:4 193:10 196:22,22 196:25 197:2,3,6 197:13,23 198:8 198:10,19,21 199:5 200:6,14 204:4 205:6 207:20 208:9 216:6 217:4 226:14 230:8 327:10,22 valves 176:20 179:11 181:2 185:9 190:12 191:14 194:21 199:6 204:5,7,11 204:14,18 205:2 205:13,18,23,24 206:5,7,15,18 207:5,6,9,13,15 207:21 208:4 211:19 212:13,25 214:18,25 215:13 215:15 216:21,25 218:15 219:7,11 221:21 230:4,22 231:6 240:3,6 241:8,24 242:7 284:23 286:19 288:19,24 327:7,9 327:13 345:17,24 346:8,25 348:12 350:15 363:13 375:15,25 376:9,9 376:10,10,10,11 376:13,25 377:2 377:14,16 389:14 395:12 various 224:16 309:15 322:22 369:6 vein 303:7 ventilation 264:17 265:8 verify 175:8 176:13 176:19 189:5 198:5 verse 264:13 version 165:5,11 168:24 193:23,24 194:2 220:16,23 221:2,4,6,8 245:14,25 246:3
---	--	---	--	--

258:9 versions 259:20 vertical 358:3 Vesey 324:15,17 378:24 vessels 266:10,18 270:12 271:2,25 272:11,13 383:18 385:14 vestibule 368:9 vicinity 284:12 Videographer 153:23 154:8 220:2,5 242:22 285:9 286:8 319:7 319:10,16 362:24 363:18,21 398:2 videotaped 150:20 151:6 154:10 242:18,24 319:13 319:18 398:5 view 385:20 visits 383:8 vivid 387:10 volume 154:9 170:13 221:17 242:18,20,23 319:17 398:5 vs 150:7 403:4 W Wachtell 152:10 155:16 Wait 195:25 waited 368:11 370:4,7 walk 176:17 216:4 356:16 367:7 387:23 388:20 walked 265:3 296:11 299:5 walkie-talkies 224:18 walking 265:12 wall 206:25 207:15 207:17 262:6 walls 263:7 280:12 281:24,25 282:9 283:6 want 157:12 166:12 195:23 216:25 220:22 244:23 251:13 256:15,18 257:3 261:24 267:23 294:16 365:5 396:9 wanted 204:25 205:10,17 209:20 210:9,16 228:11 247:15 291:22 337:3 363:23 WARBURG 150:11 warning 195:10 Washington 153:19 166:11 wasn't 255:3 300:25	318:19 325:23 waste 389:9 watch 161:10 371:7 water 162:24 258:16 266:12 268:14 269:14,15 269:16,19,22,23 269:25 270:3 271:17,21 272:20 310:7,11,14,18 311:3,7,12,14,15 311:20 312:13,17 324:5,6 325:7 326:8,18,21 327:5 327:13,20 328:2 331:13,15 368:16 369:21 370:6,15 371:18 372:13,14 375:6,15 376:11 376:14,15,20,21 376:22 378:19 379:24 380:3 382:8 383:13 389:6,7,9,10,18 389:22 390:14 watts 313:4,4,10 wave 262:22 265:4 way 171:9 174:3 191:9 210:22 216:18 219:10 224:7,7,20 226:12 242:8 244:6 246:15 268:7 308:3 317:14 348:22 351:15 367:22 368:6,7 376:7 377:21 399:18 week 296:13 weeks 276:5 282:14 282:17 355:10 375:2 384:14 weight 269:14,22 weird 265:3 welcome 174:18 WELLS 150:14 went 179:10 180:3 265:4 266:2 277:25 281:22 282:7 296:21 310:25 321:22,25 322:20 323:6,14 324:7 328:5 335:3 367:10,23 368:7,8 368:9 369:15,17 369:23,24 370:3 370:13,16 371:9 371:10,13,16,24 372:4,25 378:13 378:13,24 382:13 382:15 389:16 392:24 393:8,18 393:21 394:11 396:6 weren't 240:18 261:11 359:7	388:18 west 152:12 235:4 375:16 377:6,7 Westfield 150:9,12 150:12,12 318:10 we'll 195:19 202:7 205:9 267:5,13 272:5 319:3 349:24 362:11 364:25 we're 154:11 216:6 220:2,5 222:6 242:15,25 244:11 256:24 268:19 271:14 274:4,21 275:10 285:10 286:8 316:18 319:4,7,10,13,19 321:13 325:22 337:10 358:2 363:18,21 365:21 393:20,21 398:2 we've 185:17 186:20 197:17 199:14 200:2,19 208:17 209:14,17 211:17 212:7 213:3,14 214:2 230:4 233:10 258:18 292:3 296:10 301:18 312:14 345:17,24 360:3 378:14 395:12 whatnot 294:18 wheels 206:6,8,13 WHEREOF 399:20 whim 330:14 white 268:3 294:9 widely 265:5 294:19 wild 232:17,20 William 347:5 372:21 WILLIAMS 153:16 Windows 324:20 327:19 wine 324:20 327:20 winter 313:21 wintertime 312:24 wish 287:18,18 withstand 270:5,9 270:21 witness 154:3 189:10 193:15 203:10,15 218:2 231:24 246:6 255:2 256:14 257:6,6 259:24 262:20 268:21 269:4,6 315:14 325:17,17 326:11 326:11 359:23 379:10 381:20,22 399:10,14,20 400:3 403:5 wondering 316:15	WOOD 152:20 wooden 318:11 word 164:8 words 247:17 252:15 253:14 336:11 337:4 work 183:12 205:25 227:17 267:13 280:15 287:13 292:24 293:8 330:10 339:7 344:20 345:7 382:20 388:14 395:10 worked 159:7 205:15 251:15 282:16 345:5 386:16 389:2 working 215:23 216:10,19 222:17 227:24 229:16 261:10 270:10,22 276:20 344:4 369:6 382:23 383:18 384:12 386:6 world 150:8,13,13 150:14,14 156:2,7 156:19 157:25 159:13 161:17,22 162:5 167:22 168:2,17 170:24 171:20,24 172:24 173:7,19 181:20 183:2 185:3 186:14 204:10 217:10 222:3,17 223:6,13,24 225:13 227:17,24 228:5 229:11,17 230:9 233:23,25 234:7 235:20 239:10 246:19 250:6 252:4 254:3 260:10,17,18,24 261:4,20 262:14 263:21 281:2 283:17 289:16,17 290:4,9,15,20 295:10 296:17,24 297:6,22 300:10 301:6,10,24 302:11,19 304:8 304:10 305:14 306:25 308:19 309:22 312:25 315:18 321:17 322:17 323:6 324:20 326:19,24 327:14,20 328:12 329:6,24 330:9,12 331:15 332:2,16 338:5 341:17,19 342:2 352:14 353:6 361:20,21 361:23 363:7	366:4 378:25 392:13,21 394:15 395:6 397:18 wouldn't 165:10 219:21 220:22 238:11 251:5,6 264:25 293:5 305:25 336:25 356:3 wow 385:15 wrenches 208:14 Wright 333:16 write 271:25 272:4 287:20 written 169:2 292:22 321:6 wrong 180:5 276:23 wrote 397:7 WTC 150:9,12 334:18 403:4 X X 325:9,16 400:2 Y year 162:13 217:21 217:22 219:4 225:21 313:10 344:19,25 345:2 371:9 years 204:15 217:20 231:12 236:17 237:18,23 238:15 239:17,19 240:14 240:25 243:5 264:12 286:14 288:10 306:15 351:18 352:10 353:10 354:2 361:19 396:12 yellow 393:6 York 150:3,10,21 150:21 151:9,9,12 152:7,7,13,13,19 152:19 153:4,5,7 153:7,13,13 190:7 236:4 239:15 240:5 241:7,23 268:12 275:3 286:18 288:13,18 288:25 332:12 369:11 373:16,22 374:5 386:15 399:3,5,8 Yvonne 333:16 Z zone 173:20 249:14 269:11,11,12 270:14,15,16,17 270:19 271:6 278:6,17 279:17 279:18,18,21,23 279:24 387:21 zones 172:25 278:13 279:19
---	---	---	---	--

<p>\$</p> <p>\$133,086 343:25</p> <p>\$500 281:13</p> <p>\$7 280:6,7,17</p> <p>\$88,724 343:18</p> <p>0</p> <p>002-07724 339:14</p> <p>339:16 402:21</p> <p>003003 307:11</p> <p>402:9</p> <p>003004 307:9,12</p> <p>402:9</p> <p>009808 160:10,12</p> <p>400:18</p> <p>01 150:7</p> <p>010030 163:14,14</p> <p>010067 160:10,13</p> <p>400:18</p> <p>0481 243:16</p> <p>0485 202:20</p> <p>070012 303:22,24</p> <p>402:6</p> <p>07726 345:11</p> <p>352:24</p> <p>07728 342:8,11</p> <p>346:18</p> <p>07730 339:14,17</p> <p>402:21</p> <p>1</p> <p>1 150:13 170:24</p> <p>249:15 268:6,7</p> <p>269:3 274:10,11</p> <p>274:21,22,23</p> <p>276:17 278:2,7,7</p> <p>282:18 289:18,18</p> <p>316:23 330:9</p> <p>361:21,23 370:20</p> <p>1st 293:10,11,12</p> <p>337:22</p> <p>1.1 257:14</p> <p>1:00 286:3</p> <p>1:02 286:9</p> <p>1:45 319:8</p> <p>10 203:22,25 204:3</p> <p>204:15,22 205:18</p> <p>217:20 218:3</p> <p>232:16 233:11</p> <p>264:12 313:4</p> <p>355:7,8 356:2</p> <p>373:5 383:6</p> <p>10.2 195:21</p> <p>10.20 325:20</p> <p>10.25 315:2</p> <p>10.3 202:20</p> <p>10:49 220:3</p> <p>100 211:6 218:5,11</p> <p>218:14 225:17</p> <p>232:24 233:2</p> <p>263:2 371:7</p> <p>100030 169:11</p> <p>10010 153:7</p> <p>10017-3954 152:7</p> <p>10019-6092 152:19</p> <p>10019-6150 152:13</p>	<p>10036-6522 153:13</p> <p>108 270:8</p> <p>11th 181:9 182:14</p> <p>183:17 186:3</p> <p>187:4 200:15</p> <p>207:25 210:14,19</p> <p>211:23 214:21</p> <p>222:17 223:4</p> <p>227:7,10 228:3,15</p> <p>230:16 246:19</p> <p>250:7 259:16</p> <p>287:24 310:23</p> <p>315:11 328:16</p> <p>340:16 347:8</p> <p>349:12,15,18</p> <p>362:19 363:8</p> <p>364:14 366:3</p> <p>374:22 382:17</p> <p>383:3 395:3</p> <p>11/15/73 194:24</p> <p>11:01 220:6</p> <p>11:29 242:16</p> <p>11:31 243:2</p> <p>12 243:13,16,18,25</p> <p>244:7,7,13 245:12</p> <p>12,500 344:18,25</p> <p>12.3 340:2</p> <p>12:28 285:9</p> <p>13 245:16 246:5</p> <p>1301 152:18</p> <p>1360 269:16,18</p> <p>1362 269:20</p> <p>14 196:15,22,23,25</p> <p>198:9 312:13</p> <p>141128 150:25</p> <p>141147 191:21,23</p> <p>401:21</p> <p>141148 194:7,9</p> <p>401:24</p> <p>15 195:8,13,24</p> <p>196:4 197:8,18</p> <p>199:11 200:6,13</p> <p>201:4,9,13,19</p> <p>202:17 365:15</p> <p>15th 192:13,17</p> <p>1500 262:8</p> <p>154 400:4</p> <p>157:5 400:16</p> <p>16 197:10 202:19,24</p> <p>203:4,17 211:16</p> <p>211:22 212:6,8</p> <p>214:13 248:20</p> <p>160:11 400:19</p> <p>162181 319:23,25</p> <p>402:12</p> <p>165211 335:17,19</p> <p>402:18</p> <p>165375 395:16,19</p> <p>402:24</p> <p>165376 395:17,20</p> <p>402:24</p> <p>167:9 400:22</p> <p>17 198:20 199:2,4</p> <p>213:7,15,22,25</p> <p>214:2</p> <p>172:17 400:25</p>	<p>173:12 401:4</p> <p>18 150:21 151:3</p> <p>403:4</p> <p>181:13 401:7</p> <p>182:19 401:10</p> <p>183:22 401:13</p> <p>184:19 401:16</p> <p>186:7 401:19</p> <p>19 168:18 169:13,18</p> <p>170:9 259:2,3,5</p> <p>191:22 401:22</p> <p>194:8 401:25</p> <p>194571 157:3,6</p> <p>400:15</p> <p>194729 243:18,20</p> <p>244:3</p> <p>194730 245:17</p> <p>194740 201:7,8</p> <p>194741 202:22,25</p> <p>203:6</p> <p>194758 379:3</p> <p>194759 325:3,4</p> <p>381:14</p> <p>194763 267:9</p> <p>314:12</p> <p>194764 251:25</p> <p>255:9,16 314:22</p> <p>194818 157:4,7</p> <p>400:15</p> <p>1973 192:13,17</p> <p>1986 160:25 161:6</p> <p>164:22,24 165:2</p> <p>168:21 260:15</p> <p>1993 162:7,8 168:3</p> <p>237:17,22 238:14</p> <p>239:18 240:13,25</p> <p>243:4 260:10,13</p> <p>260:19 261:5,21</p> <p>263:15,21 265:21</p> <p>266:21 281:3,10</p> <p>281:20 282:23</p> <p>283:17,24 284:7</p> <p>286:14 288:10</p> <p>297:15 298:12</p> <p>300:10 312:23</p> <p>315:7 351:18</p> <p>352:9 353:9 354:2</p> <p>355:15 358:2</p> <p>361:4,16 362:9</p> <p>367:4 368:19</p> <p>386:19</p> <p>1999 358:3 361:4,17</p> <p>362:10,14</p> <p>2</p> <p>2 150:13 170:24</p> <p>242:19,23 268:6,8</p> <p>268:25 269:5</p> <p>274:3,9,24,24,25</p> <p>278:2,7,8 289:18</p> <p>289:18 308:25</p> <p>316:24 319:12</p> <p>361:22 366:11</p> <p>367:13,16 369:22</p> <p>371:12 372:17</p> <p>395:6</p>	<p>2,000 279:9</p> <p>2.1 257:22</p> <p>2.2 257:22 258:15</p> <p>2:03 319:11,14</p> <p>2:06 319:20</p> <p>20 232:19 233:6</p> <p>271:15 272:15</p> <p>312:9 360:22</p> <p>200 211:6 263:2</p> <p>2000 180:17</p> <p>2000-WTC 150:17</p> <p>20005 153:19</p> <p>2001 162:9,12 163:3</p> <p>163:10 180:14,17</p> <p>181:9 183:17</p> <p>186:3 187:4 190:4</p> <p>200:15 210:14</p> <p>211:23 214:21</p> <p>217:21,22 219:4</p> <p>222:14,15,16,17</p> <p>223:4 224:11</p> <p>225:19,21 228:15</p> <p>246:20 250:7</p> <p>283:3 294:24</p> <p>304:11,21 315:11</p> <p>318:6 321:2 336:3</p> <p>340:16,16 345:2</p> <p>347:8,11 349:9,12</p> <p>349:15,18 362:18</p> <p>362:19 366:3</p> <p>382:17 395:3</p> <p>396:7</p> <p>2002 150:21 151:3</p> <p>398:14 399:21</p> <p>403:4,23</p> <p>203757 186:6,8</p> <p>401:18</p> <p>203758 172:16,18</p> <p>400:24</p> <p>203759 184:18,20</p> <p>401:15</p> <p>203760 173:11,13</p> <p>401:3</p> <p>203761 183:21,23</p> <p>401:12</p> <p>203762 182:18,20</p> <p>401:9</p> <p>203763 181:12,14</p> <p>401:6</p> <p>208699 167:8,10</p> <p>400:21</p> <p>208750 257:8,20</p> <p>208757 257:13,14</p> <p>208758 257:13,16</p> <p>208805 167:8,11</p> <p>400:21</p> <p>21st 399:21</p> <p>21,000 261:16</p> <p>275:22 277:8,10</p> <p>22 400:9</p> <p>22nd 156:8 304:11</p> <p>304:20 383:2</p> <p>23 158:6 164:14,18</p> <p>164:18 165:5</p> <p>245:25 258:23,25</p> <p>259:5</p>	<p>24 171:10 198:2</p> <p>24th 222:13,16</p> <p>223:4 224:11</p> <p>227:10 228:15</p> <p>294:24 318:6</p> <p>321:2 340:16</p> <p>342:25 347:11</p> <p>349:9 362:18</p> <p>25 199:22</p> <p>25th 321:2</p> <p>250 270:23</p> <p>2500 279:5</p> <p>253:20 402:4</p> <p>26 274:17 336:3</p> <p>285 305:2 328:12</p> <p>290 194:20</p> <p>294 194:20</p> <p>295 400:8,9</p> <p>3</p> <p>3 268:8 273:19,24</p> <p>274:2,9,24,25</p> <p>278:2,7,8 319:17</p> <p>359:16 398:4</p> <p>400:8</p> <p>3:03 363:19</p> <p>3:14 363:22</p> <p>3:58 398:3</p> <p>30 231:12 272:13</p> <p>30th 156:13 202:6</p> <p>303:23 402:7</p> <p>307:10 402:10</p> <p>310 193:15,15</p> <p>319:24 402:13</p> <p>32-002640 307:8,11</p> <p>402:9</p> <p>32-003003 307:9</p> <p>334:11 402:16</p> <p>335:18 402:19</p> <p>339:15 402:22</p> <p>34 157:5 165:4,6</p> <p>171:14 195:14</p> <p>201:4,6,14 202:11</p> <p>202:12,22 203:6</p> <p>214:10,14,19</p> <p>215:3,7 243:14</p> <p>244:3,17 245:13</p> <p>245:14,17 251:25</p> <p>267:10 314:12</p> <p>325:3 379:3</p> <p>400:14</p> <p>35 160:11 161:12</p> <p>169:10 171:14</p> <p>400:17</p> <p>350 281:12</p> <p>36 167:9 169:19</p> <p>171:14 198:3</p> <p>257:8 400:20</p> <p>36-inch 376:10</p> <p>365 313:9</p> <p>37 172:17 174:22</p> <p>175:5 179:8,20,21</p> <p>182:6 187:7 189:3</p> <p>400:23</p> <p>38 173:12 401:2</p> <p>39 181:13 190:3</p>
--	---	--	---	--

193:18,18,22,25 195:6,22,24 196:2 196:7 197:18 198:8,12 199:15 200:3,10 401:5 395:18 402:25	52nd 152:12 52-001789 334:10 334:12 402:15 53 395:18 402:23			
4	6			
4 150:14 151:9 170:24 268:8 273:18 274:18,23 276:15,17 278:2,7 278:9,22,24 279:12,17 289:18 289:18 310:6 313:4,10 316:25	6 268:9 271:7,12 272:21,23 273:4,5 273:17 274:9,25 278:3,9 378:25 60-inch 376:10 630 269:21,22 631 269:21 270:3 66-inch 376:10			
4.13 257:17,24 4:00 398:7 40 182:19 184:4,15 401:8 400 359:16 41 183:22 184:4,12 184:15 401:11 41st 270:20 278:3,4 42 184:19 401:14 425 152:6 43 186:7 187:7 189:4 401:17 44 191:22 196:2,4 197:16,17 200:18 401:20 45 194:8 195:24 196:3 212:6,7,14 213:10 220:9 364:3,6,8,9 401:23 46 253:20,24 314:2 402:2 47 303:23 308:8 402:5 48 307:10,22,23 308:10 316:5,8,9 402:8 484 195:20 49 319:24 329:20 334:25 402:11 49,000 275:20	7 7 268:9 271:7,12,14 271:23 272:22,23 273:3,17 274:9,25 278:3,9,12,18,21 279:19 280:19,21 322:17 7th 153:6 7,000 268:12,13 275:19 279:5,9 7,500 344:16 725 153:18 75 218:9 75th 270:8 750 270:10 7730 350:2			
5	8			
5 150:14 170:24 268:9 273:18 274:18,23 276:15 276:17 278:3,9,23 278:25 279:12,18 289:16,17 315:17 316:7,10,12,25 317:21 328:12 329:6 5,000 344:16 50 218:7,11,14 233:4,11 334:11 341:15 360:11 393:21,25 402:14 51 152:12 335:18 402:17 52 339:15 402:20	8 199:12 203:18 212:10 8's 203:21 8.7 243:16			
	9			
	9 203:23,25 204:4 204:22 205:18 9:19 154:12 9:20 151:4 911 359:13 9291 150:7 966 377:20 99 305:24 306:15			